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MILITARY GOVERNMENT IN THE SOUTH DURING RECONSTRUCTION.

BY the acts of March 2 and March 23, 1867, Congress laid down the lines on which the process of reconstruction was finally to be carried through. This legislation, supported by the public sentiment of the North, practically settled the constitutional issues of the war. Not that efforts were not made to break the hold of the national military power on the South. Sanguine lawyers of both sections hastened to Washington to invoke the aid of the supreme court in overthrowing what seemed palpably unconstitutional proceedings under the Reconstruction Acts. Mississippi applied through counsel for an injunction to restrain the president from enforcing those acts,[1] but in vain; "government by injunction" in this particular aspect failed to win the favor of the court. Nor was any better success attained when Georgia moved against Stanton, the subordinate,[2] rather than Johnson, the chief. The court wisely recognized a sphere in which it would not intrude upon the discretion of the executive. A more promising opportunity to test the obnoxious laws arose in connection with the writ of *habeas corpus*. For the better enforcement of the Civil Rights Act Congress in 1867 extended the appellate jurisdiction of the supreme court to all *habeas corpus* cases that involved United States laws. One McCardle, a Mississippi editor, availed himself of this law to bring before the court the question as to

[1] Miss. *vs.* Johnson, 4 Wall. 475. [2] Georgia *vs.* Stanton, 6 Wall. 51.

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the legality of his arrest under the Reconstruction Acts. The supporters of these acts were very distrustful of the court, especially as to its possible opinion on the clauses establishing military government. When, therefore, the court denied a motion to dismiss McCardle's appeal and heard the case argued on its merits, the Congressional leaders were greatly alarmed. Before an opinion was rendered the House hurried through a repeal of so much of the act of 1867 as was involved in McCardle's case; the Senate concurred with unwonted celerity; and, though the scheme was detected in time to receive the president's veto, the bill became a law, and the court dismissed the case for want of jurisdiction.[1] The justices were no doubt greatly relieved to escape the responsibility of deciding this case. It was much better from every point of view that the fierce controversy of the times should be fought out entirely by the distinctively political organs of the government. After the failure of the McCardle case the opposition to reconstruction found significant expression chiefly in the messages of the president and the platforms of the Democratic Party, neither of which carried much weight.

Meanwhile the process was carried to its conclusion by the military commanders to whom its execution was entrusted. The functions of these officers were, under the terms of the acts, of a twofold character. First, the "adequate protection to life and property," which was declared by the acts to be lacking, was to be furnished by the military; second, the organization of a new political people in each of ten[2] states was to be effected according to the method laid down in the acts. The purpose of this essay is to set forth the leading features of the military régime in the performance of the first of these functions.

I.

The chief end of the Reconstruction Acts was purely political. They were enacted for the purpose of giving the negro

[1] *Ex parte* McCardle, 6 Wall. 324; 7 Wall. 512.

[2] Tennessee had been restored to her normal relations in the summer of 1866.

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the ballot in the ten Southern states which had rejected the proposed Fourteenth Amendment. Their whole operation, therefore, must be regarded as incidental to this object. That the establishment of military government was a feature of the system they embodied, was due primarily to the fact that the introduction of negro suffrage was possible only by the strong hand. The act of March 2 did indeed allege that "no adequate protection for life or property" existed in the states concerned, and asserted the necessity of enforcing peace and good order therein. But these declarations were inseparably connected with the denunciation of the existing state governments as illegal; so that the lack of protection for life and property could be construed as arising from the illegality rather than from the inefficiency of the *de facto* civil authorities.

It was, indeed, contended by the more violent radicals in the debates on reconstruction that the actual conditions in the South were intolerable and that military force was needed for the mere maintenance of peace, apart from political reorganization. But the weight of evidence pointed to the contrary. The reports of the army commanders and of the commissioners of the Freedmen's Bureau for 1866 were almost uniformly of a reassuring tone. Abuse of freedmen and Union men was not only becoming less common, but was also receiving adequate attention from the ordinary state courts. General Wood declared that in Mississippi substantial justice was administered by the local judiciary to all persons irrespective of color or political opinions. General Sickles thought the same to be true for most parts of South Carolina. General Howard, the head of the Freedmen's Bureau, drew from the reports of his subordinates a similar conclusion as to the whole region covered by their operations.[1] On the other hand, General Sheridan found a good deal still to be desired in Louisiana and Texas, and Sickles admitted that certain specified counties of South Carolina failed to afford a safe habitation for the freedmen. The latter officer's explanation of the existing disorder embodied a truth that was applicable very generally throughout the South. He declared

[1] See reports annexed to that of the Secretary of War for 1866.

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that the outrages in the localities referred to were not peculiar to that time.

> Personal encounters, assaults and difficulties between citizens, often resulting in serious wounds and death, have for years occurred without serious notice or action of the civil authorities; . . . where it has hitherto seemed officious to arrest and punish citizens for assault upon each other, they can hardly be expected to yield with any grace to arrests for assaults and outrages upon negroes.[1]

The general here touched upon a potent source of evil to the South in the days of reconstruction. Northern opinion tended to judge the rebel states by social standards that never had been fairly applicable to them. A laxity in the administration of criminal justice that had always prevailed was wrongly ascribed by the North to a mere *post-bellum* spirit of rebellion and race hatred.

The most striking evidence that affairs were assuming a normal condition in the South was afforded by the extent to which military authority and jurisdiction were withdrawn during the year 1866. The Freedmen's Bureau had been endowed with judicial authority in cases in which the freedmen were not assured of equal rights with the whites; but by the end of that year a gradual relinquishment of this authority was completed in most of the states. Only in parts of Virginia, Louisiana and Texas were the special courts still in existence at the time of the commissioner's report. The ordinary administration of civil and criminal justice for all citizens irrespective of race had thus been resigned to the state courts. This process had of course been rendered much more rapid by the enactment of the Civil Rights Act, which gave to the regular national judiciary jurisdiction over cases in which equal rights were denied. By action of the military authorities the "vagrancy laws" and other offensive statutes passed by the state legislatures for controlling the blacks had been rendered nugatory, and the United States courts manifested from the outset a resolution to give to the Civil Rights Act an interpretation that should effectively nullify any parts of the "black codes"

[1] Report annexed to Annual Report of the Secretary of War for 1866.

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that had escaped the military power. But all further labor by the judiciary on the problem of securing equal civil rights for the freedman was rendered for the time unnecessary by the resort to military power to secure him equal political rights.

In the spring of 1867, when the first Reconstruction Act went into effect, the general situation in the South was probably not as satisfactory as it had been at the beginning of the preceding winter. Two causes had contributed to a reaction. In the first place, the crops had in many parts of the South failed entirely in 1866. The pressure of famine began to be felt early in the winter, and by the beginning of the next spring the distribution of food through both public and private agencies had assumed large proportions.[1] Upon the relations between the races the crop failure had serious effects. Complaints arose in every direction from the freedmen that their wages were not being paid by their employers. The latter in too many cases were quite unable to pay, in others were disposed to take advantage of the situation to escape their liability. Much friction naturally arose out of the circumstances. To this was added the bad feeling generated by the discussion of negro suffrage in Congress and out during the winter. As the resolution of the dominant party to enfranchise the blacks by force became clear, the disgust and despair of the whites tended toward expression in violence, especially wherever the freedmen manifested any consciousness of unwonted power. There is little room to doubt that the establishment of military government at the South was indispensable to the Congressional scheme of reconstruction; but that such government was necessary without reference to that scheme is hardly to be conceded.

II.

By the act of March 2, 1867, the ten Southern states affected were divided into five military districts, each to be

[1] By authority of a joint resolution of March 30, the Freedmen's Bureau devoted half a million dollars to the purchase and distribution of food in the South. — Report of Commissioner Howard.

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commanded by an officer not below the rank of brigadier-general. The duties of these officers were

> to protect all persons in their rights of person and property, to suppress insurrection, disorder and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals.

For the execution of these duties the commanders could either allow the local civil tribunals to try offenders or organize military tribunals for the purpose. In case the latter method were employed, the sentence of the tribunal was to be subject to approval by the district commander; and, if it involved the death penalty, to the approval of the president. Interference with the military under color of state authority was declared null and void, while the existing civil governments in the states were declared provisional only, and subject to the paramount authority of the United States, to abolish, modify, control or supersede. In these provisions were defined the functions of the commanders so far as the preservation of order and the conduct of civil administration were concerned. Their duties in the reorganization of the state governments were set forth in the supplementary act of March 23d, and will be considered elsewhere.

On the 11th and 15th of March orders from army headquarters made the following assignments of commanders: first district, Virginia, General Schofield; second district, North Carolina and South Carolina, General Sickles; third district, Georgia, Florida and Alabama, General Pope; fourth district, Mississippi and Arkansas, General Ord; fifth district, Louisiana and Texas, General Sheridan. All these officers had distinguished themselves in the war and had acquired reputations that guaranteed success in any military capacity. But the positions in which they now found themselves demanded other than purely military qualities. They were to carry out a great political policy, which was to be resisted not by armed force, but by political means. They were to act under a commander-in-chief who was a violent adversary of the policy, and under a general of the army whose conscientious efforts to

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maintain an impartial attitude failed to conceal his disposition to favor the policy. They had to deal, moreover, with civil governments which their commander-in-chief insisted were constitutional organizations, but which Congress had declared destitute of legality. Though military officers are not supposed to have political opinions, the five generals could hardly fail to be influenced by their personal conclusions on the great issues of the day. It was generally known that Sheridan and Pope were in favor of strong measures in dealing with the South, and that Sickles would readily adopt a radical line of action.[1] If Schofield and Ord, from whatever motives, failed to conform to this example, it was inevitable that they should be displeasing to the extremists in Congress and should be sustained by the moderate Republicans and the Democrats. Political, rather than military, considerations would necessarily form the basis for judgment upon the conduct of the commanders; and in order to sustain their honorable reputations a degree of tact and discretion in civil affairs was essential that far exceeded anything that had been required of them before.

As to the mass of the whites — the people, in a political sense, of the South — no possible conduct of the military rulers could be expected to win their approval. The necessity of submission to force had been thoroughly learned, and no organized resistance was attempted to the few thousand troops that were scattered over the ten states.[2] But the loss of the self-government which had gradually been restored during the last two years caused deep indignation and resentment. Apart from the dread of approaching negro domination, the mere consciousness that the center of authority was at military headquarters, and not at the state capital, disheartened the most moderate and progressive classes. It soon appeared, more-

[1] *Cf.* Blaine, Twenty Years of Congress, II, 297, note. This note, though satisfactory for the subject in connection with which I have cited it, contains a number of those inaccuracies of statement and implication which mar every part of this useful but untrustworthy work.

[2] The Adjutant-General's Report of October 20, 1867, gives the total force in the ten states as 19,320, distributed among 134 posts. Richmond and New Orleans had about 1000 men each; but at no other post were there as many as 500. Of the total force, over 7000 were in the fifth district — Louisiana and Texas.

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over, that military government was not to be simply nominal; the orders of the commanders reached the commonest concerns of every-day life, and created an impression of a very real tyranny.

At the outset all five generals announced a purpose, and most of them a desire, to interfere as little as possible with the ordinary civil administration.[1] Officials of the existing governments were directed to continue in the performance of their duties until duly superseded. All elections under state laws were forbidden, however, since the negroes were to be clothed with the suffrage before the popular will should again be consulted. As to the administration of justice, whenever it appeared to the military officers that the ordinary courts were not sufficiently active or impartial in their work, cases were transferred to the military tribunals that were expressly authorized by the Reconstruction Act. The punishment of blacks by whipping or maiming, which was provided for by recent state acts, was prohibited at once, in accordance with a rider in the army appropriation act of March 2, 1867. It was inevitable that the summary overriding of the established order, on however moderate a scale, should engender conflicts of authority and consequent friction; but the only result was that the assertion of military control in the administration of both civil and criminal law increased steadily in scope in all the districts as the months rolled on. Each fresh recourse to arbitrary authority aroused a great storm of reproach and denunciation from the Democratic press both North and South; and in June the administration itself, through a published opinion of Attorney-General Stanbery, harshly disapproved the policy adopted by most of the officers. This brought a crisis; and Congress, hastily reassembling, conclusively defined the scope of the military power by the supplementary legislation of July 19.

[1] The most important orders and correspondence relating to military government in its initial and determining stages are embodied in Sen. Ex. Doc. No. 14, 1st sess., 40th Cong.

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III.

The most harassing question that had to be dealt with by the generals on assuming their commands was that of their relation to the officers of the existing state governments. The act of March 2 declared these governments to be provisional only and subject to the paramount authority of the United States "to abolish, modify, control or supersede the same"; but did not expressly empower the district commanders to wield this paramount authority. In pursuance of their express power to maintain order, the generals were, however, obliged to assume that a control over the *personnel* of the state administration was implied. Removals from office were, accordingly, made from the beginning on grounds of inefficiency or of obstruction to the work of registering the negroes. As removals did not abolish the offices, but were followed by appointments, military headquarters tended to become the center of a keen struggle for place and patronage. The mutual recriminations of the parties to such struggles were echoed throughout the land and contributed one more element to the embarrassment of the commanders.

The manner of filling vacancies caused by removal or otherwise also gave rise to serious discussion. Under military law there seemed no doubt that an officer or soldier could be detailed by the commander to perform the duties of any position. This method was employed in many cases; but in this respect the supply of troops was entirely inadequate to the demand, and resort had to be made to civilians. At this point, however, important questions of constitutional law arose. What was the legal status of a civilian appointed, for example, governor of Louisiana? Was he a state or a federal officer? Certainly not the former; for, apart from the question as to whether any state in the constitutional sense existed in Louisiana, no officer of such a state could be conceived as deriving his tenure from the will of an army officer. But if the appointee were a federal officer, why should he not be subject to the constitutional requirement of appointment by the president, with the advice and

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consent of the Senate? Congress might, under the constitution, vest the appointment of inferior officers in "the president alone, in the courts of law or in the heads of departments";[1] but there seemed no basis for appointment by a major-general commanding a military district. As a matter of fact, the attempt to define the precise status of civilian appointees was never successful. The radicals in Congress thought they should be designated rather as "agents" of the district commanders than as officers in any strict sense.[2] It was rather gratifying than otherwise to reflect that these "agents" drew their salaries, not from the army appropriation or any other national funds, but from the treasury of the state.

Serious as were the questions involved in the policy, the commanders were forced by sheer necessity to make civilian appointments from the very outset. In this practice the whole spirit of the reconstruction legislation required that only "loyal" men receive preferment. Thus was begun, even before reconstruction was effected, the process of giving political position and power to a class which, from the nature of the case, could have little influence with the masses of the Southern whites. In the beginning the test of "loyalty" was a record of opposition to secession and of positive hostility, or at least lukewarmness, to the Confederate cause. As the reconstruction proceeded, the test was insensibly transformed until, before the end was reached, the prime qualification of the loyal man was approval of the Reconstruction Acts and of negro suffrage. Office-holding thus tended to become the prerogative of those few whites who professed allegiance to the Republican Party. Only in connection with the registration and after the enfranchisement was complete were the blacks admitted to important official positions.[3]

The actual practice of the commanders in respect to removals and appointments varied in the different districts. From Virginia to Texas the construction and application of the powers

[1] Constitution, art. ii, sec. 2.

[2] *Cf.* Wilson in Cong. Globe, 1st sess., 40th Cong., p. 527.

[3] Five negroes were appointed policemen in Galveston as early as June 10, and there may have been other instances of this kind. — Ann. Cyc., 1867, p. 715.

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conferred by the act grew more radical with the progress southward. General Schofield, in Virginia, besieged headquarters with supplications for authoritative rulings upon his powers, and meanwhile exercised the powers with great moderation. Civil officers were not "removed," but were "suspended" from office and "prohibited from the exercise of the functions thereof until further orders."[1] Civilian appointments were made after consultation with local judicial officers, and the appointees were duly commissioned by the governor of the state. In the Carolinas General Sickles was obliged to assert his authority more freely. He was, however, able to maintain cordial relations with Governors Worth and Orr,[2] and this fact smoothed his path somewhat. Removals were made only for positive misconduct in office, and were but twelve in number for the first three months of the command.[3] Appointments were very numerous, a large number of municipal offices falling vacant by expiration of the incumbents' terms. The extent to which the military power affected the most peaceful aspects of social life is illustrated by the fact that a "trustee of Newbern Academy" was among those who were clothed with official authority by orders from headquarters.[4] In the third district General Pope assumed at once an extreme position as to the scope of his authority, and proposed to exercise it by deposing Governor Jenkins, of Georgia, for expressing hostility to the Reconstruction Acts. The governor saved himself by a plea of ignorance as to the commander's will, and escaped with nothing worse than a severe scolding, administered in a letter which manifested the same easy self-confidence and fluency of expression that had made its author a little ridiculous in the second Bull Run campaign.[5] At the end of May the mayor, chief of police and other municipal officers of Mobile were summarily removed, and their places were filled by "efficient Union men." The occasion for this was a disturbance that took place in connection with a meeting at which Congressman Kelley, of

[1] *Cf.* Special Orders, No. 50 and No. 54, in reference to certain justices of the peace.

[2] Sickles to Grant, Sen. Ex. Doc., No. 14, 1st sess., 40th Cong., p. 56.

[3] *Ibid.*, p. 58. [4] *Ibid.*, p. 81. [5] *Ibid.*, p. 102.

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Pennsylvania, made an address. This exercise of the power of removal and appointment excited very widespread attention, and controversy raged fiercely as to the justice and legality of the action. It was but a few days later that General Sheridan, at New Orleans, took the most decisive step of all in removing Governor Wells, of Louisiana, and appointing Mr. Flanders, a civilian, in his place. Removals and appointments in minor offices[1] had been very frequent in the fifth district, but this last action brought the whole question to a head. As department commander before the passage of the Reconstruction Acts, General Sheridan had conceived a very poor opinion of the leading politicians of both Louisiana and Texas, Governor Wells among them.[2] But Wells had influential friends in administration circles at Washington, where Sheridan was particularly disliked; and, moreover, the extension of the discretionary power of a commander to a sphere where very important considerations of influence and emolument were involved caused a great sensation.

President Johnson was now overwhelmed with demands that the acts of Sheridan and Pope should be overruled. Attorney-General Stanbery had been asked for an opinion on this and other points in the interpretation of the reconstruction laws. His opinion, rendered under the date of June 12, declared that these acts gave no authority whatever for either removal or appointment of executive or judicial officers of a state.[3] But Congress sprang promptly into the breach, and by the supplementary act of July 19[4] gave to the commanders, in the most unqualified terms, power to remove at their discretion any state officer, and to fill vacancies either by the detail of an officer or soldier, or "by the appointment of some other person." Under this authority there was no longer any room for doubt or ground for hesitation. The act provided further that it should be the "duty" of the commanders to remove from office all persons

[1] The attorney-general of the state and the mayor and city judge of New Orleans were removed March 27.

[2] *Cf.* Sheridan's report for 1866, in Rep. of Sec'y of War, 2d sess., 39th Cong.

[3] The opinion is in Sen. Ex. Doc. No. 14, 1st sess., 40th Cong., p. 275.

[4] Given in McPherson, History of the Reconstruction, p. 335.

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"disloyal to the government of the United States," and required that new appointees should take the "iron-clad oath." [1]

Every facility was thus afforded for a complete control of the *personnel* of the civil administration by the commanding officers. When the constitutional conventions under the new registration met in the various states, strong pressure was put upon the generals and upon Congress to bring about a "clean sweep" of the existing officials, and a bill requiring such a proceeding was brought before the House of Representatives. But General Schofield and other officers declared that the adoption of this policy would render government impossible, as there were not available enough competent persons to fill the places vacated, if the iron-clad oath were required. Until reconstruction was nearly completed the commanders, therefore, were permitted to retain their discretion in the matter, and changes were made, as a rule, only for good cause.[2] Governor Throckmorton, of Texas, was removed July 30 for having made himself an "impediment to the execution of" the Reconstruction Acts, and was succeeded by a civilian named Pease.[3] Governor Jenkins, of Georgia, who had escaped the power of General Pope, fell quickly before that of General Meade, who succeeded Pope at the beginning of 1868. The governor, having refused to execute warrants on the state treasury for the payment of the expenses of the constitutional convention, was summarily deposed, and his functions were assigned to General Ruger.[4] Governor Humphreys, of Mississippi, was deposed in June, 1868, as an obstacle to reconstruction, and was succeeded by General Ames. In other states governors were removed,

[1] The stringent oath required from officers of the United States, by act of July 2, 1862. It could not be taken by any one who had given "voluntary support" to any Southern government during the rebellion.

[2] By the law of Feb. 6, 1869, the commanders were required to remove all officers who could not take the iron-clad oath. But at that time military government prevailed only in Virginia, Mississippi and Texas.

[3] The unsuccessful candidate in the election at which Throckmorton had been chosen governor.

[4] The treasury officials, sympathizing with Jenkins, concealed and spirited away the books of the treasury, whereupon the suspected persons were brought before a military commission for punishment. But General Meade's financial path was very thorny. — See his report for 1868.

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but only to facilitate the transition from the military régime to the permanent system under the new constitutions. Of the lesser state officials the changes in *personnel* were naturally most extensive in the larger towns and cities. It was there that partisan zeal tended to find its most heated expression; and there also were to be found in the greatest numbers the Union men who could qualify for office under the new law. Before reconstruction was completed, therefore, the municipal administration in all the principal cities was remanned by military authority. The list in which this was wholly or partially the case includes Wilmington, Atlanta, Mobile, Vicksburg, New Orleans, Galveston and Richmond.

IV.

In respect to the relation of the district commanders to the laws of the states subjected to their authority, there was room for a difference of opinion similar to that which we have seen in respect to the *personnel* of the governments. Power to modify or set aside existing laws was not expressly bestowed upon the commanders; and the recognition of civil governments of a provisional character gave room for the implication that the legislation of these governments was to have permanent force. But a different view was acted upon by most of the generals from the beginning. Assuming that they were endowed with all the powers incident to "the military authority of the United States," and that their duty to "protect all persons in their rights of person and property" required the unlimited use of such powers, they refused to regard the state laws as of any significance save as auxiliary to the military government. Whatever validity attached to such laws was due to tacit or express approval of them by the commander. General Schofield, in giving to military commissioners the powers of county or police magistrates, directed them to be "governed in the discharge of their duties by the laws of Virginia," so far as these did not conflict with national laws "or orders issued from these headquarters."[1] General Sickles specifically pro-

[1] Gen. Orders, No. 31, May 28, 1867.

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claimed in force "local laws and municipal regulations not inconsistent with the constitution and laws of the United States or the proclamations of the president, or with . . . regulations . . . prescribed in the orders of the commanding general."[1] From these illustrations the implication is clear that existing law could be superseded by the military order — that the district commander had legislative authority.

Against this interpretation of the Reconstruction Act Attorney-General Stanbery argued most earnestly in his opinion of June 12. No power whatever, he declared, was conferred on the commanders in the field of legislation. They were to protect persons and property, but the sole means for this purpose that the law gave them was the power to try offenders by military commission; save where such procedure was deemed necessary, the jurisdiction and laws of the old state organization remained intact. But the ingenuity of Mr. Stanbery was of no avail. In the supplementary act of July 19 Congress declared explicitly that the ten state governments, at the time the Reconstruction Act was passed, "were not legal state governments; and that thereafter said governments, if continued, were to be subject in all respects to the military commanders of the respective districts, and to the paramount authority of Congress." This phraseology assured to the generals the same free hand in respect to state laws as was assured in respect to state officers by other parts of the act.

So far as the criminal law was concerned, the failures of justice which had been alleged as justifying the establishment of military government were attributed to the administration rather than to the content of the law. The military commissions which were constituted with various degrees of system and permanency by the district commanders served very effectively to supplement the regular judiciary in the application of the ordinary state law. No extensive modifications of the law itself, therefore, were considered necessary. When policemen or sheriffs failed to arrest suspected or notorious offenders, the troops did the work; when district-attorneys failed to

[1] Gen. Orders, No. 1, March 21, 1867.

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prosecute vigorously, or judges to hold or adequately to punish offenders, the latter were taken into military custody; when juries failed to convict, they were supplanted by the military courts. It was fully realized from the outset that, in the condition of public opinion in the South, trial by jury could not be expected to give strict justice to Union men or, in general, to the freedmen. As an alternative, however, for the general establishment of military commissions a remodeling of the jury laws was an obvious expedient. If juries could be empaneled from blacks and whites indiscriminately, the influence of the rebel sentiment would be neutralized. It seemed axiomatic, moreover, that, if the freedmen were qualified to vote, they were qualified for jury service. Accordingly, we find that the more radical commanders — Sickles, Pope and Sheridan — used their authority to decree that the blacks should be accepted as jurors. With the completion of the registration of voters, the attainment of the end sought was simple; court officers were directed to make up the jury panels from the registration lists.[1] General Schofield, in Virginia, with his usual wise conservatism, concluded that this method of solving the problem would not be satisfactory, and confined himself, therefore, to the use of military commissions.[2]

Before the completion of the registration made feasible the method finally employed, the commander in Texas had sought to attain the end by requiring jurors to take the "iron-clad oath." But this was bitterly resented by the Southerners on the ground that it practically excluded native whites from the juries.[3] Even the final method caused great friction between the courts and the commanders in Louisiana and Texas. The vast extent and sparse population of the region included in these states made the fifth district altogether the most difficult to

[1] *Cf.* Report of Secretary of War for 1867, vol. i, pp. 304 ss, 331 ss.

[2] "After full consideration I became satisfied that any rule of organization of juries, under laws which require a unanimous verdict to convict . . . must afford a very inadequate protection . . . in a society where a strong prejudice of class or caste exists." — Report of General Schofield in Report of Secretary of War, 1867, vol. i, p. 240.

[3] For the correspondence on this matter, see Sen. Ex. Doc., 1st sess., 40th Cong., No. 14, pp. 208–210.

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deal with in every phase of the reconstruction process. When General Hancock, succeeding Sheridan, assumed command in November, 1867, he formally revoked the order requiring that jurors be chosen from the registered voters, and put the old state laws in operation. This action was an incident of the new commander's general policy, which, as embodied in his famous General Orders, No. 40, reversed that of his predecessor. "Crimes and offenses," he declared, "must be left to the consideration and judgment of the regular civil authorities"; and in Special Orders, No. 203, after reciting that Sheridan's order as to jurors was acting as a clog on justice, he asserted that in determining the qualifications for jurors it was best to carry out the will of the people as expressed in the last legislative act upon the subject.[1] The reluctance of General Hancock to interpose, either through military courts or through modification of the jury laws, in the ordinary administration of justice, gave great offense to the loyalists in the South and to the radicals throughout the Union, and was held to have resulted in a widespread revival of crime in the fifth district.[2]

The changes in the jury laws by military authority affected, of course, both civil and criminal law. Of like scope was the summary abrogation by General Sheridan of a Texas act of 1866 by which the judicial districts of the state were rearranged, the commander holding that the act had been passed for the purpose of legislating two Union judges out of office.[3] Of the modifications of criminal law pure and simple, conspicuous examples are found in Sickles' General Orders, No. 10, in which the carrying of deadly weapons was forbidden, the death penalty for certain cases of burglary and larceny was abolished, and the governors of North and South Carolina were endowed with the powers of reprieve and pardon.[4] This last provision was probably suggested by a case in which the military power had been effectively invoked by the civil in the interest of mercy.

[1] For the whole subject see Hancock's report in Report of Secretary of War for 1868; also Ann. Cyc., 1867, pp. 463–464.

[2] See his report for a sharp correspondence with Governor Pease, of Texas.

[3] Sen. Ex. Doc., 1st sess., 40th Cong., No. 14, pp. 218 *et seq.*

[4] *Ibid.*, p. 62.

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A negro in North Carolina had been convicted of burglary and sentenced to death. The governor believed that the case called for clemency, but under the state laws he had the power only to pardon and not to commute. As a pardon was not desirable, the case was laid before the district commander, who then, by his paramount military authority, commuted the sentence to imprisonment for ten years.[1]

The operation of military government in connection with the general police power of the states is illustrated by General Sickles' prohibition of the manufacture of whiskey, on the ground that the grain was needed for food; by his prohibition of the sale of intoxicating liquor except by inn-keepers; by General Ord's command that illicit stills and their product be sold for the benefit of the poor, on the ground "that poverty increases where whiskey abounds"; and by General Sheridan's summary abolition of the Louisiana levee board and the assignment of its duties to commissioners of his own appointment, "in order to have the money distributed for the best interests of the overflowed districts of the state."[2]

V.

As to the administration of justice in the field of private law, interference by the district commanders was for the most part confined to action in special cases where the proceedings of the courts seemed inequitable or contrary to public policy. Under the latter head fall a variety of instances in which the circumstances of the war and of emancipation were involved.

[1] Sen. Ex. Doc., 1st sess., 40th Cong., No. 14, p. 76.

[2] The full reason assigned in the commander's order was: "To relieve the state of Louisiana from the incubus of the quarrel which now exists between his excellency the governor and the state legislature as to which political party shall have the disbursement of the four million dollars of 'levee bonds' authorized by the last legislature, and in order," *etc.*, as above. — Sen. Ex. Doc., 1st sess., 40th Cong., No. 14, p. 250. General Sheridan's orders and correspondence afford copious evidence that his temper was sorely tried by the Louisiana politicians. In several of his dispatches to General Grant his language in reference to the president's policy was perilously near the line of insubordination; but it won for him the enthusiastic support of the radicals in the North, and the House of Representatives passed a special vote of thanks to him for his services in Louisiana.

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Thus we find General Schofield ordering a Virginia court to suspend proceedings for collecting a judgment in a case of assault committed in 1863.[1] General Sickles set aside a decree of the South Carolina court of chancery which ordered that a fund, raised to remount a Confederate cavalry force in 1865, but left unused in a Charleston bank, should be returned to the contributors. The general held that the money belonged to the United States.[2] Again, a Charleston savings bank was obliged by military order to pay, with interest, sums due to certain soldiers who were in the garrisons of Forts Sumter and Moultrie in 1860, and who had demanded their money, but in vain, just before the beginning of hostilities.[3] General Ord suspended proceedings looking to the sale of an estate on account of a deed of trust for money due for the purchase of negroes.[4]

Such examples of intervention by special orders are numerous; a far-reaching modification of law and procedure was attempted only by General Sickles in the second district. His General Orders, No. 10, of April 11, 1867, with the later supplementary decrees, assumed, as Attorney-General Stanbery complained, "the dimensions of a code."[5] The basis of this policy was the widespread destitution among the people and the General's conviction that extraordinary measures were necessary to enable them to develop their resources. There was no room for doubt that the Southern states were all in a condition of economic demoralization. As usual under such circumstances, the complaints of debtors, based generally on real hardship, were loud and widespread. Not in the Carolinas alone, but throughout the South, the demand for stay laws was heard. It would hardly have been surprising if all the district commanders, in the plenitude of their powers and the benevolence of their hearts, had sought to bring prompt relief by decreeing new tables. General Sickles, after describing the distress due to crop failure and debt, and the "general disposition shown by creditors to enforce upon an impoverished

[1] Sen. Ex. Doc., 1st sess., 40th Cong., No. 14, p. 47.
[2] Ann. Cyc. for 1867, art. "South Carolina."
[3] Sen. Ex. Doc., 1st sess., 40th Cong., No. 14, p. 86.
[4] *Ibid.*, p. 152. [5] Opinion of June 12, *ibid.*, p. 281.

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people the immediate collection of all claims," declared that "to suffer all this to go on without restraint or remedy is to sacrifice the general good." Accordingly, he announced the following regulations, among others, to remain in force until the reconstructed governments should be established: Imprisonment for debt was prohibited. The institution or continuance of suits, or the execution of judgments, for the payment of money on causes of action arising between December 19,[1] 1860, and May 15, 1865, was forbidden. The sale of property upon execution for liabilities contracted before December 19, 1860, or by foreclosure of mortgage was suspended for one year. Advances of capital, required "for the purpose of aiding the agricultural pursuits of the people," were assured of protection by the most efficient remedies contained in existing law; and wages of agricultural labor were made a lien on the crop. A homestead exemption, not to be waived, was established for any defendant having a family dependent upon his labor. The currency of the United States was ordered to be recognized as legal tender. Property of an absent debtor was exempted from attachment by the usual process; and the demand for bail in suits brought to recover ordinary debts, "known as actions *ex contractu*," was forbidden.

These sweeping enactments were followed by others of a similar character. Having prohibited the manufacture and regulated the sale of whiskey within the district, General Sickles further decreed that no action should be entertained in any court for the enforcement of contracts made for the manufacture, sale, transportation, storage or insurance of intoxicating liquors. Having prohibited discrimination in public conveyances between citizens "because of color or caste," he gave to any one injured by such discrimination a right of action for damages. Finally, he abolished distress for rent, and ordered that the crops should be subject to a first lien for labor and a second lien for rent of the land.[2]

[1] South Carolina passed its ordinance of secession December 20, 1860.

[2] Gen. Orders, No. 32, May 30, 1867; Sen. Ex. Doc., 1st sess., 40th Cong., No. 14, p. 71.

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This interpretation of military authority as the basis of a benevolent despotism called forth a vigorous protest from Attorney-General Stanbery in his opinion of June 12. But nothing was done to interfere with the commander's proceedings until he came in rude conflict with the national judiciary. On the theory on which his decrees were based they were valid against any authority save Congress. Chief Justice Chase sat in the circuit court at Raleigh in June, 1867, and proceeded in due course to decide cases and issue process of execution to enforce judgments. A marshal who undertook to execute in Wilmington a judgment that fell within the stay decrees of General Orders, No. 10, was prevented by the commander of the post, who was sustained by General Sickles. This action raised an issue of a much more serious character than was involved in the interference with merely state judicial procedure. Chief Justice Chase protested to the president that the military authority established to enforce the laws of the United States was being employed to obstruct them. Steps were taken by the federal district attorney in North Carolina to proceed against Sickles for resisting judicial process of the federal courts. General Grant wrote to Sickles that "the authority conferred on district commanders does not extend in any respect over the acts of courts of the United States." Still Sickles asked for time to explain; but before his explanation was completed, the president performed the executive duty which Mr. Stanbery had in June assured him could not safely be avoided or delayed;[1] for on August 26 General Sickles was, by order of the president, relieved of his command. His successor, General Canby, promptly instructed the commander at Wilmington not to oppose the execution of the circuit court's judgment. Thus it was settled that, though a debtor was protected against a creditor who was a citizen of the same state, a foreign creditor was assured of the customary relief. This situation was only another example of the anomalies that characterized the whole process of reconstruction. To any protest against the injustice of such a condition the ready re-

[1] Opinion of June 12.

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sponse was: Hasten the work of reconstruction, secure the admission of the states to full rights, and all irregularities will cease.

In other districts than the second the apparent necessity of relieving distress produced a few instances of paternal modification of private law. In June, 1867, General Ord, "with a view to secure to labor . . . its hire or just share of the crops, as well as to protect the interests alike of debtors and creditors from sacrifices of property by forced sales," suspended till the end of the year the judgment sale of lands under cultivation, crops or agricultural implements, on actions arising before January 1, 1866.[1] But this decree was explicitly declared to be not applicable so far as the United States courts were concerned. In Virginia, also, sales of property under deeds of trust were suspended where the result would be to sacrifice the property or to leave families or infirm persons destitute of support.[2] Radical action on behalf of debtors was strongly favored by many in the South; and this sentiment found expression in the constitutional conventions when they assembled in the various states. In Mississippi the convention petitioned General Gillem, Ord's successor, to stay executions for debt by military order; but the general refused.[3] Hancock, in the fifth district, when asked if he would enforce an ordinance of a convention for the relief of debtors, replied that he regarded such an ordinance as beyond the scope of the convention's authority.[4] Pope, in the third district, referring to suggestions that had been made publicly, said: "I know of no conceivable circumstance that would induce me to interfere by military orders . . . with the relation of debtor and creditor under state laws."[5] The conventions in Georgia and Alabama, however, adopted ordinances prohibiting various proceedings "oppressive" to debtors and abolishing certain debts, to take effect with the new constitution. General Meade, who had succeeded Pope, became aware that great hardships were being

[1] Gen. Orders, No. 12, Sen. Ex. Doc., 1st. sess., 40th Cong., No. 14, p. 146.
[2] Ann. Cyc., 1868, p. 760.
[3] *Ibid.*, p. 508.
[4] Report annexed to Report of Secretary of War, 1868-69, vol. i, p. 249.
[5] Ann. Cyc., 1867, p. 365.

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caused by the eagerness of creditors to press for executions, in order to anticipate the operation of the ordinances. As the only method of meeting this difficulty, he proclaimed the ordinances in force at once as a military order.[1] Thus Georgia and Alabama were for a time on the same plane with the Carolinas in this particular matter.

VI.

In the administration of state finances the same arbitrary authority was exercised as in the matters already considered. By the act of March 23 Congress provided for the payment out of the treasury of the United States of "all expenses incurred by the several commanding generals, or by virtue of any orders issued or appointments made by them under or by virtue of this act." But the "fees, salary and compensation to be paid to all delegates and other officers . . . not herein otherwise provided for" were to be prescribed by the respective conventions, which were authorized by the act to levy and collect taxes for the purpose. A method of interpretation no more liberal than that which was applied by Congress to other provisions of the act would have availed, if applied to these, to throw the entire burden of state administration on the national treasury.[2] In practice, however, the Congressional appropriations were employed only for the expenses of the registration and of the elections, both for delegates to the conventions and for ratification of the constitutions. The running expenses of the state governments were paid from the respective state treasuries. The condition of the finances in most of the states was anything but reassuring; and the feeling of the property owners toward reconstruction did not conduce to more than usual promptness in the payment of taxes. Considerable friction developed also in adapting the administrative machinery of assessment, collec-

[1] Report annexed to Report of Secretary of War, 1868.

[2] President Johnson, employing this method, rolled up an appalling total ($16,000,000 certainly, and "hundreds of millions" probably) as his estimate of the sum necessary to carry out the Reconstruction Acts. — Message of July 15, 1867.

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tion and disbursement of moneys to the requirements of military rule. Most of the difficulties were removed through the generals' control over the *personnel* of the administration. Their legislative authority became necessary, however, in a number of cases through expiration of the laws regulating tax levies and appropriations. The assembling of the legislatures was, of course, forbidden; and the prolongation of the laws beyond the term fixed by their provisions was effected by orders from headquarters.[1] At the same time advantage was taken of the opportunity to effect such changes in taxation and expenditure as seemed desirable under the changed circumstances. General Pope directed that no payments should be made from the state treasuries of his district, except on his approval, in order that he might prevent further expenditures for "bounties to soldiers in the rebel army for support to their families; pay of civil officers under the confederacy; providing wooden legs, *etc.*, for rebel soldiers; educating rebel soldiers, *etc.*," few of which he thought likely to be authorized by the reconstructed state governments.[2] In South Carolina General Canby suspended the collection of a tax on sales which had been imposed by the last legislature, and had given rise to complaints because of its retroactive effect;[3] and in December decreed material reductions in several kinds of taxes.

When the conventions met in the various states, the military authority was required to settle various questions connected with their financial operations. As we have seen, the conventions were authorized by law to levy and collect taxes on property for the payment of the delegates and for other expenses. One of the first acts in each convention was to fix the salary of delegates — at a figure generally that aroused much enthusiasm among the negro members. But to await the levy and collection of a tax before enjoying the emolument of office was a possibility that seriously damped the ardor of the constitution-makers: in fact, in view of the poverty of the people in

[1] *E.g.*, Hancock's Special Orders, No. 40, of February 22, 1868. — Report of Secretary of War, p. 232.

[2] Pope's report, annexed to Report of Secretary of War for 1867.

[3] Ann. Cyc. for 1867, p. 699.

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general and the antagonism of the whole tax-paying class to the convention, such delay threatened the further process of reconstruction with failure. Hence recourse was had at once to the expedient of an advance from the state treasury for immediate expenses, on the security of the tax that was levied by the convention. Such advance was ordered by the commanders,[1] as no authority of state law for this appropriation of funds could be found. But the power of the commanders was called upon to restrain as well as to promote the activity of the conventions. There was a marked tendency on the part of these bodies to arrogate to themselves governmental as well as constituent functions, and to exceed the limits of the task prescribed by the terms of the Reconstruction Acts. This tendency the commanders firmly repressed. In Mississippi, among other manifestations of this spirit, the ordinance for the levy and collection of the tax to cover the convention's expenses was cast in a form that General Gillem refused to approve. His refusal to enforce it caused the convention to repeal it and to pass another that was satisfactory to him.[2] This episode illustrates the fact that, in the plenitude of their powers as absolute rulers, the generals were above the constituent assemblies of the inchoate new states as distinctly as they were above the governmental organs of the expiring old states.

The foregoing review reveals how far-reaching was the authority of the military commanders in the practical operations of state government. It would be hard to deny that, so far as the ordinary civil administration was concerned, the rule of the generals was as just and efficient as it was far-reaching. Criticism and denunciation of their acts were bitter and continuous; but no very profound research is necessary in order to discover that the animus of these attacks was chiefly

[1] It was for refusing to issue the warrants in conformity to this order that the governor and financial officers of Georgia were removed by General Meade. — *Ante*, p. 393.

[2] Report in Report of Secretary of War, 1868, pp. 585 *et seq.* One clause of this latter ordinance, which imposed a tax on railroads, contrary to an exemption in their charters, was annulled by General Gillem.

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political. The instincts and traditions of popular government would permit no recognition of excellence in any feature of arbitrary one-man rule; and the whole system was, moreover, in the eyes of the critics, hopelessly corrupted by the main end of its establishment — negro enfranchisement. The influence of this end was, in truth, so prominent that a judgment on the merits of the administration of the generals apart from it is almost impracticable. In their conduct of civil affairs equity and sound judgment are sufficiently discernible to afford a basis for the view that military government, pure and simple, unaccompanied by the measures for the institution of negro suffrage, might have proved for a time a useful aid to social readjustment in the South, as preliminary to the final solution of the political problems. But the opportunity for the most profitable employment of such government had passed when, through President Johnson's policy, civil functions had been definitely assumed by representative organizations in the states. There would, indeed, have been substantial merit in the consistent application of either the presidential or the congressional policy in reconstruction; but there was disaster alone in the application of first the one and then the other.

WM. A. DUNNING.

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WASHINGTON CITY GOVERNMENT.

IN respect to its municipal government the city of Washington is unique among the political institutions of the United States. It is, in fact, the only political unit in the whole land in which local authority is not based on popular suffrage. Our national capital has been a laboratory of political science in which the democratic ideal of the equality of men in choosing their rulers has been tested and found wanting. Over twenty years ago this doctrine was laid aside as a failure, after having been tried in actual practice for more than three-quarters of a century.

In the Constitution of the United States exclusive jurisdiction over the District of Columbia was reserved to Congress. To the national legislature, therefore, is due the municipal organization that, up to a recent date, received very neglectful treatment from its creator. During the process of planning and founding the city, its government was vested in commissioners appointed by the federal authority. When Washington was formally incorporated, it was intrusted to a mayor appointed by the President of the United States and a council elected by the people. At the end of ten years the council was empowered to select the executive. In less than another decade (1820) a new corporation was ordained, consisting of a mayor and a miniature congress; and all the members of this corporation — mayor, aldermen and councillors — were to be chosen by popular election. Thus Congress generously turned its child adrift, on the benevolent principle that the youngster could look after its own needs better than any one else.

This change hastened the progress of the city but little. The system was put to a severe strain in bitter factional fights at nearly every election, in which a larger part was often played by national than by local questions. Improvements went on slowly; the streets were practically without pavements and the town without houses. People floundered

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through the mud in winter and were choked by the dust in summer. The population took nearly sixty years to reach as many thousands. Circumstances, however, ultimately forced into mind some conception of the dignity and importance that should attach to Washington as the capital of a great country. The Civil War thrust before men from every nook and corner in the land the backwardness and shabbiness of the city. Local pride was then stimulated to higher aims, and efforts were put forth to make Washington worthy of its position. But ambition in its first flush was frequently untempered by sound judgment; and the money intended for improvements was wasted, if not swept away in corruption.

Congress then came forward to check the spendthrift, and restored the original form of government, with changed titles. A governor and the members of an upper house were to be chosen by the President and Senate of the United States, and the members of a house of delegates were to be voted for by the people. In conjunction with these, to aid in the development of the city, a board of public works was provided for, likewise to be appointed by the national government. But the results were not all happy. It is true that the rural town began rapidly to grow into a city, and that generous plans were mapped out to provide for its development for half a century to come; but a terrible storm of indignation burst forth from the irate taxpayers. Whether the perplexities of the situation were so distressing that only contempt for settled procedure could meet the needs of the hour; or whether it was seen by penetrating minds that a lax Congress could be aroused to a sense of its responsibility only by outraging all order and decency; or whether the temptation of "fat jobs" was too much for all except stern moralists; or whether the chief officials were vulgar "bosses," bent only on plunder for themselves — at all events it is certain that, not only the city, but the whole country rang with charges of rascality, venality and general lawlessness in the government of the District. Yet out of this whirlwind of strife and passion finally emerged the outlines of an enlarged urban community. During all the

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conflict and confusion a great deal had been accomplished in the way of material improvement, though much of the work was slovenly and had to be done over. Whether the same goal could have been reached by advancing in the regular paths of a civilized society, no man can now say. As a final commentary on this episode of upheaval it can be said that Congress, after a laborious investigation, became ashamed of its own child, and voted to put him back into leading strings again, with not a voice raised in defense of his wild escapades. All measures for giving the people some share in city administration were cast aside, and it was acknowledged that for the peculiar needs of Washington democratic government was impossible. Congress realized that for three score years and ten it had been on the wrong track, and that the welfare of the municipality was indissolubly bound up with that of the nation. This tardy change of heart resulted in 1878 in the establishment of the form of government which now prevails.

In this system the claims of the municipality on the nation are frankly admitted in the provision that the national government shall bear one-half of the local expenses. This proportion is based on the fact that one-half of the value of the real estate in the District is comprised in the public buildings. To conduct the work of administration a responsible bureaucracy is substituted for an immature democracy. All the usual powers of a municipal corporation are lodged in the hands of three commissioners, appointed for a term of three years at a salary of $5000 each. Two of them are nominated from civil life by the President of the United States and confirmed by the Senate, the chief qualification being that they shall be citizens of the United States and "actual residents" of the District of Columbia for the three years next preceding their appointment. The third commissioner is assigned to exclusive duty by the president from the engineer corps of the army.

These three men are the official head of the corporation of the District of Columbia. They are endowed with the control of appointment and removal over practically all the executive officers in the District. Through their wide powers of regula-

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tion in police, health and other matters they come very near the line of legislative functions. They are organized as a board, with one of their number chosen by themselves as president, to transact business by a majority vote. For the dispatch of routine matters they parcel out the duties among themselves, each being considered supreme in his own domain, subject, of course, to the decision of the board. There is no legal or permanent division, though the army officer commonly has charge of those details that pertain to the engineering department of a city. The general assignment of functions at present in force is as follows:

President John W. Ross acts as tax assessor, city attorney, inspector of liquors and property clerk; and controls matters touching charitable and reformatory institutions, licenses, public schools, the workhouse, the fire department, routes of street railways, street sweeping and special permits. Commissioner Wight acts as auditor, collector, coroner, health officer, harbor master, inspector of buildings, lumber, food and fuel, and trustee of Columbia hospital; and supervises the Chesapeake and Ohio Canal, elevators, fire escapes, hay scales, insurance companies, paupers, the police, the telegraphs and the telephones. Commissioner Black (the army officer) takes charge of contracts, the parking commission, railways, highways, the river front, sewers, licenses to steam engineers, the surveyor's office, the water department, plumbing, gas lamps, and the inspection of boilers, bridges, asphalt and cement. The engineer member, moreover, has by law the aid of three assistants, drawn from that well-trained body of specialists, the United States engineer corps. One of these at present supervises all surface improvements; the second looks after the water, lighting and plumbing departments; and the third, after the sewers.

Such in outline is the existing city government of Washington — a system quite different from that of any other city in America. More puzzling to the average citizen is the absence of the usual facilities for getting rid of an obnoxious administration at the next election. What, then, can be done in Washington? What if this system gets crusted with barnacles

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or wrapped in red tape? What if the commissioners become haughty and arrogant, and the army officer begins to show that contempt for civilians that seems inseparable from a soldier's profession?

The best guarantee against these dangers is the gauntlet a man must run to win the prize, and the keen scrutiny to which he is exposed after getting it. In all actions touching the municipality the President of the United States is in a position to be as free from improper personal motives as a man can be in this world. Neither friends nor foes can rise up in the city to make or mar his fortunes, because the citizens, being excluded from the polls, are utterly insignificant in any national matter. Having no further lot among the people than a sojourn for a limited number of years, the president can act solely with an eye to a perfect administration. Congressmen also occupy, to some extent, the same elevated plane. Many of them, being practically citizens, feel defects and shortcomings as keenly as the ordinary man, but with the advantage that they can stand in the capitol and utter their criticisms in the hearing of the whole land. They can speak for their fellow-citizens, and by Congressional inquiry can have the smallest details of municipal business laid open to public inspection.

From the establishment of the system in 1878 the president, in appointing commissioners, has usually taken special pains to find the best men—through his personal knowledge, if possible, or through confidential interviews and thorough study of lives and records. In several cases the post has been offered to men who had never even thought of receiving the honor. The story is told of President Garfield that, having very reluctantly received a committee of citizens who wished to urge the appointment of a commissioner from a certain section of the city, he ended a long hearing by not only granting the petition, but offering the position on the spot to one of the committee. In selecting an army officer as the third member the president can most easily disregard social and political influence and choose from merit alone. In some cases, perhaps, he has delegated this duty to the war department, but in others he has unmis-

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takably spent time and effort in his search for the most suitable man. President Arthur, for example, with the secretary of war, went laboriously over the record of every man eligible for the detail. Particular attention is paid to the civil side of an officer's character — to his tact and affability in dealing with people. Nor does the president's vigilance relax with the signing of the commissions. His potential, if not active, influence is exerted so long as he is in the White House. Twice has the military member been removed: once because of complaints at what appeared to be arbitrary conduct in opening a street through a cemetery; and again, it is said, because of arousing the hostility of certain Congressmen and the anger of a large corporation staff. One of the early civilian commissioners also felt the sting of the same supervision, if we are to credit the chief daily paper in Washington. He was superseded before the end of his term, after "a big volume of complaints" had been made that "the board are aristocratic, bureaucratic, not easily approached and that citizens who have grievances are snubbed." Finally it was announced: "The president appears to have come to the conclusion that, on the whole, the administration of District affairs was not reasonably satisfactory to the people, and that some change should be made to secure a more popular government." Throughout the incident it was believed that the president acted solely from the standpoint of the common good. It is a long step toward ideal government when subjects have the general conviction that neither "favoritism" nor "prejudice" dictates the changes made in offices.

A man approved by the executive for the post of commissioner has still to face the judgment of the Senate — perhaps a severer test, because more public. With the Senate committee his enemies have a fair field for their assaults. At this stage three nominations have been bitterly and successfully opposed. On the first one, over ten years ago, the committee held public hearings; and a mass of accusations and charges were filed, with resolutions from civic organizations and petitions from all classes. In the second case, equal opportunity was afforded to all to raise objections. In the third, it was asserted that the

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nominee was obnoxious to several senators. Moreover, scrutiny does not cease with confirmation, but even becomes sharper, as the lower house often vies with the upper in wielding the weapon of Congressional inquiry. These investigations are possible at any moment, and can reach the minutest official act. In actual practice they have involved such subjects as paving and its cost per yard, tree planting, street sweeping, removals from office and the reasons therefor, the connection of the commissioners with railway, bank or gas companies in the city, and the wisdom or legality of regulations on a variety of matters.

On account of this irregular but many-eyed vigilance the commissioners are, as a rule, men of a higher type than the average mayor in an American city. The political gamester who so often climbs by trickery and intrigue to the mayor's chair in our largest cities is an utter impossibility in Washington. Of the twelve civilian commissioners, all have been of good social standing. Most of them have been college graduates, several having been educated at the Columbian University. Though but few of them have been natives of Washington, all had acquired large interests in the city before being chosen for the post. All of them have been men of approved ability and undoubted success in private life. Nearly all have been lawyers of good practice, and acquainted with the management of large affairs. One was the author of a valuable digest of District laws. Two had, prior to appointment as commissioners, held high national positions — one as commissioner of internal revenue and the other as senator. At least two were men of means, retired on a competency, but willing to give their energies to such burdensome employment. One was a lumber dealer who was indorsed by practically all the leading merchants and men of wealth in the city. The president of the existing board was an attorney of lucrative clientage, and had served also as chairman of school trustees and as city postmaster. The capacity and attainments of the military member are vouched for by his rank and by the judgment of his superior.

In the conduct of business the commissioners are more approachable than the average American mayor. Patience and

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courtesy are shown to the humblest: no "pull" or introduction is necessary. For two hours in the morning on certain days in the week the president of the board is ready for all callers. He receives them in a large room, at the end of which is his office, partitioned off by a couple of desks and book cases. Each goes to him in turn, without announcement or card or previous interview with private secretary, under the democratic rule "first come, first served." On any matter of general interest a time is set for a formal hearing; and the arguments delivered by counsel for and against the proposed measure are often supplemented by advice and testimony invited from the general public. The commissioners by law have to report to Congress on all District bills introduced in that body. For the discharge of this duty they prepare themselves by listening to discussions on all sides of the question. In all their proposed regulations they display the same desire to learn the impressions of the general public and of those most nearly affected. Thus, there were several public sessions on the bill to require all street railways to give transfers at intersections; and wide opportunity was granted the representatives of express and delivery agencies for exchange of opinion on the proposed regulation for wide tires.

Members of the District committees of the houses of Congress are often present at such occasions, and assist very materially by their comments and inquiries. While Congress is in session they constitute, in fact, a miniature city council; as they freely hear complaints and suggestions from any aggrieved element, and do not hesitate to take issue with the commissioners. For example, at one time the farmers who sell from the curbing around the Centre Market were charged with trespass by the police. They sent a delegation to appeal to the Senate committee for what they deemed their rights. The senators visited the scene of contest and took testimony on the spot. As their judgment did not agree with that of the commissioners, the farmers were troubled no more, the matter being "laid aside for further deliberation."

The commissioners are more sensitive to public opinion than an elected executive, because, though appointed for a definite

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period, they are subject at all times to rebuke and removal by their superiors. Even in a case of public necessity they are not arbitrary in their methods. For example, the District has for years greatly needed a hospital for contagious diseases. Several times has a decision on a location been reached and then revoked on account of the outcry of the adjacent residents and land owners. Finally, a suburb was settled upon and the site was actually purchased; but even then the project was abandoned, as the annual report confesses, because "of the sincere and earnest opposition of the protestants."

The justification for the peculiar mechanism of municipal government in Washington is readily found in the peculiar character of the city and of its population. The city is really "a big government reservation," and has to be treated as such. It is a resort for the idle and shiftless, a paradise for negroes, a Mecca for tourists, at the same time a growing center of fashion and culture, and withal, despite civil-service reform, a vast hotel for transient office-seekers. The conjunction of such discordant elements makes popular government *a priori* absurd.

It is significant that those who are most interested are the best satisfied with the existing system, even though they discharge none of the functions of an American citizen except to pay taxes. In a pretty full postal-card vote taken by a leading paper only a minute fraction of the people favored the introduction of manhood suffrage. At the same time, it is repugnant to the political instinct of an American that the great body of people who support the government should have no voice in its management. It is true that, if he has no direct influence over the management of public affairs, he can fall back on public opinion, and by concentrating that can exert an effective pressure. But even if one has the privilege of uttering his sentiments to the authorities, and is heard as an individual with the attention that his character and standing demand, it is only when he stands forth as the agent of his fellows that he speaks with an authority that few in a free country venture to neglect. Accordingly, when the citizens of Washington saw that, by the law of 1878, they were excluded from the government that they had to

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maintain, they found a lever to move their masters in the influence of citizens' associations. At the same time, they have preserved the principle of local initiative by allowing each section of the city to fight its own battles for an equitable share of the common benefits provided by all. The special needs of each locality are vigorously and persistently thrust before the officials; and, through the play of earnest rivalry and warm criticism, fair apportionments can be made and happy compromises effected. The great success of this peculiar city government is due in no small degree to the jealous watchfulness of these citizens' associations.

The germ of these civic combinations may be found in the ringing appeal of a leading paper in Washington, just after the adoption of the present form of government, for the people to "stir themselves to secure the selection of the right sort of commissioners." Quickly did the people respond; and in a few years every quarter of the city and the adjacent territory was represented by an association. As each new suburb was settled, another association was added, until now there are sixteen of these unofficial town councils. In constitution and general method they are all alike. Each works under a written constitution, with officers proper to a deliberative body and meetings at stated times to hear reports and hold discussions. The qualifications for membership are very liberal and the annual fees small — usually about one dollar. The main work is done by committees, in which the one-man idea is pushed to an extreme in empowering the chairmen to name their colleagues. A committee is put in charge of each special object of public interest within the local bounds, including usually sewers, paving, gas, street railways, water mains, street extensions, school facilities, the mail service, fire apparatus and police. Thus laborious investigations are carried on, and a vast amount of valuable information is gathered, which is often preserved in printed form.

The multiplication of these associations, however, engendered cross purposes, and energy was sometimes wasted in rivalries

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rather than devoted to the good of all. Concerted action could have been best secured by a representative assembly; but federation of the associations, though much desired, has never been effected organically. Practically, however, its ends have been attained through the creation of the board of trade. This term is a misnomer, as the body is in no sense devoted to the interests of technical business or industry, but is really an association to promote the general welfare of the city by influence with Congress, by coöperation with the District administration and by the encouragement of united voluntary effort. A board of trade was started nearly thirty years ago on the usual lines denoted by the name; but the present board, with its clear-cut objects, only came into existence in 1889, after the failure of several similar projects. It is organized on the plan of the local citizens' associations, with a board of directors, and it meets in the heart of the city. The membership fee is ten dollars. The names of nearly all the leading residents in professional and business life are on its membership list, which aggregates over five hundred, and includes two of the District commissioners, with other municipal officials. As many of its members are actively connected with the smaller associations, it is fairly representative of the whole District. It has over twenty standing committees, including those on bridges, parks and reservations, public buildings, public health, public library, public schools, railroads, river and harbor improvement, legislation, sewerage, streets and avenues, and water supply. Through their agency the board performs a work of inestimable value in collecting statistics and acquiring detailed knowledge of municipal affairs. It publishes an annual report of more than a hundred pages, well digested and packed with trustworthy data and thoughtful conclusions.

The policy of the board of trade has been marked by solid conservatism and wonderful tact, which have won for its opinions a high standing with the city authorities. As representative of the public, it aims to work in conjunction with the authorities, assisting with advice and information. As an organ of the mass of the citizens, it can speak with some weight in

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voicing the sentiments of the governed. In all its actions it aims at sympathetic coöperation, and avoids any policy such as has brought some of the local associations into sharp clashes with the District commissioners. The board of trade usually takes up only questions affecting the whole city, which its members can agitate with practical unanimity. This unbroken front increases the moral momentum of its action in any matter. The board knows the strength of social influence; and it annually invites prominent members of Congress and of the District government to meet at dinner for a frank interchange of views. It also arranges an excursion along the water front for the city's aldermen, and carries them down stream to a shadbake. The utmost cordiality obtains between the board and the commissioners. It constitutes, in fact, a spontaneous supplement to the District government. Again and again questions are referred to the board for report, and conferences are held with its committees. Lately a committee of the board was closeted with the commissioners for an entire evening on the subject of tax assessments; and other committees have labored on street extension, on street railway transfers and on the regulation of the width of tires. One of the local associations even offered to engage counsel to aid the commissioners in some fight with a railroad corporation. Special committees also are often appointed to urge measures on Congress; and they are heard at length and with respect.

The meetings of these associations, both local and general, are marked by earnestness and directness of purpose. Those attend who are interested, and no clap-trap tricks are used to draw a crowd. Difficult questions are expounded with a fullness of detail and of technical precision that would never be dared before the usual political audience. Little appeal is made to the emotions; there is no soul-stirring "eloquence" or spread-eagleism. The atmosphere is one of hard facts and cogent reasoning. These associations are a happy means for harnessing the substantial men of a community to the vexatious but noble task of civic counsel and influence. For such men—who, even if fully imbued with public spirit, would find the more common species

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of municipal politics quite distasteful — they furnish a congenial theater for the exercise of their talents, and one in which their character and intelligence are appreciated. In these bodies some of the foremost men in every vocation in the city are active. Thus, the president of the board of trade is the managing partner in the largest department store in Washington; while of the two former presidents, one was a successful real-estate dealer and the other a man of large financial interests, who had once been a District commissioner.

The value of these associations is freely conceded by all, and the papers give full reports of all their doings. The District commissioners cheerfully acknowledge indebtedness to them for sound suggestions and useful information. The members of Congress rely on the genuineness and disinterestedness of their motives. A senator considered it ample recommendation for a bill that it had been indorsed by the board of trade. The Hon. William L. Wilson, during his service as Democratic leader in the lower house, gave the fullest recognition to the work of these spontaneous organizations of the people. Through their activity, in fact, municipal government in Washington has assumed in operation a very different form from that contemplated in its organization. By law, the system is a benevolent despotism; in practice, it is a representative aristocracy.

C. MERIWETHER.

WASHINGTON, D. C.

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TREATIES AND TREATY-MAKING.

ONE is wont daily to hear important treaties mentioned and their provisions analyzed. Their effect upon international intercourse is a fertile topic of discussion and comment. But while acquaintance with the substance of a treaty may be widely diffused, knowledge of its form, or of the procedure observed in its creation, is rarely possessed except by those directly engaged in the affairs of diplomacy. A review of this procedure may, therefore, prove not without some interest.

In the making of an international public contract, whether designated as a treaty, a convention or an agreement, there are four distinct stages through which it must pass before it becomes a perfected instrument. These are technically known as the conclusion, the ratification, the exchange of ratifications and the proclamation. While a treaty is binding internationally — as between state and state — after the exchange of ratifications,[1] it requires the proclamation, as a general rule, before it can become binding municipally.

I.

The negotiations for a treaty are conducted by plenipotentiaries or specially empowered agents of the respective contracting governments. Usually these plenipotentiaries are the secretary of state for foreign affairs of the country wherein the negotiations are carried on and the resident diplomatic representative of the other power. Departures from this rule, however, have not infrequently occurred, especially in the negotiation of treaties of peace, when special representatives have been appointed. In the history of modern times only

[1] Unless otherwise provided, however, the treaty is held to bind the governments from the date of the signing, exchange of ratifications having a retroactive effect.

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two treaties are known to have been directly negotiated and signed by sovereign monarchs in person.[1] Of these the more important was that of the famous Holy Alliance, to which the emperors of Russia and Austria and the king of Prussia attached their own signatures and seals. The other was the preliminary treaty of Villafranca, concluded between Napoleon III and the emperor of Austria, July 11, 1859. As a rule, therefore, the authority to act in concluding a treaty is a delegated power: it is a grant by the sovereign to its representative. This grant is embodied in an instrument conferring full power to "negotiate, conclude and sign" a treaty or convention with the agent who is invested with similar powers to act for the other government concerned. In the United States the great seal is affixed to this instrument, on the authority of a warrant signed by the president.

Before entering upon the consideration of a proposed treaty, the rule obtains that the agent of each government shall communicate his full power to the agent of the other government, to the end that each may determine whether the power of the other is "in due and proper form." In the case of important treaties, such as treaties of peace, these instruments are most carefully examined. It has occasionally happened that negotiations have been suspended or altogether broken off, because one or the other agent has not been clothed by his government with powers sufficiently ample. A recent instance of this kind was furnished by the Chinese-Japanese peace negotiations of 1895, which were held in abeyance for a time because of the limited powers with which the first Chinese commissioners, Chang Yen Hoon and Shao Yu Lien, had been invested, and the consequent refusal of the Japanese commissioners to treat with them. The negotiations were subsequently conducted to a satisfactory ending at Shimoneséki by Li Hung Chang, who was clothed with the necessary enlarged powers.

The initial steps of the negotiations consist generally in oral

[1] The treaty of guaranty concluded at Casr Saïd between France and Tunis, May 12, 1881, was signed by the Bey on his own behalf, but by a plenipotentiary on the part of France.

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discussions (*pourparlers*), which result finally in the formulation of a draft that gradually undergoes the modifications necessary to bring about harmony of views between the agents upon the provisions to be inserted in the agreement. It was especially at this stage of the proceedings that Talleyrand was often so successful in gaining unexpected advantages over his opponents;[1] and it was here that M. Favre, by the exercise of masterly ingenuity, saved France from the necessity of ceding to Germany the entire territory of Lorraine. When each provision is finally agreed upon, the signing of the treaty follows. The act of signing is the "conclusion" of the treaty. The affixing of the signatures and seals of the respective plenipotentiaries does not mean, however, as the technical expression seems to imply, that the treaty is completed and has become operative, but only that its terms have been formally agreed upon, and are ready to be submitted to the respective governments for their sanction.

The treaty to be signed is usually made out in as many counterparts as there are contracting parties to it, each counterpart being regarded as an original. These are generally written with the pen and sometimes neatly engrossed, special care always being taken to secure legibility and to avoid the omission of any diacritical or punctuation mark that might affect the sense. Where there are a number of parties to a treaty, its counterparts may be, and now usually are, printed. This practice was followed, for example, in the convention for the protection of submarine cables, concluded at Paris, March 14, 1884, to which there were twenty-six signatory states; and in the general act for the repression of the African slave trade, concluded at Brussels, July 2, 1890, to which there were seventeen.

The Latin language prevailed in the composition of treaties until the eighteenth century. Some of the most important treaties in European history, such as those of Münster and Osnabrück, under which the peace of Westphalia was effected,

[1] Pradier-Fodéré, Cours de droit diplomatique, II, 266; Mémoires du Prince de Talleyrand, II, 280–282.

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of Nymwegen in 1678, of Ryswick in 1697, of Utrecht in 1713, of Vienna in 1725, and of the Quadruple Alliance of London in 1718, have been composed in that language. The practice of employing Latin for treaty stipulations, however, fell into disuse as that language gradually sank from its position as the particular medium of expression in the sciences. Now the Holy See alone retains it in bulls and international acts. In the eighteenth century French gradually took its place as the language of diplomacy and, with more or less variation in the practice of different nations, holds that distinction to-day, notwithstanding the tacit rule that each state shall employ its own language in treating with other states.

The French language has, in recent times, been the one usually employed in the composition of treaties where the number of contracting parties has been more than two. Thus, the convention for the establishment of an international bureau of weights and measures, concluded at Paris, May 20, 1875, that for the protection of industrial property, concluded at Paris, March 20, 1883, and that for the protection of submarine cables, concluded at Paris, March 14, 1884, were written in the French language only. Where there are only two contracting parties to a treaty it has been customary for the negotiators to prepare it in the languages of their respective countries: for instance, in the case of an American negotiating with a German plenipotentiary, the English text and the German would appear in parallel columns, article by article, on the same sheet or on opposite pages of the same document. With Great Britain a single version is, of course, enough. With Russia, as an exception to the general rule, most treaties are prepared in English and French; but the convention relative to navigation, fishing and trading in the Pacific Ocean, *etc.*, concluded April 17, 1824, is in the French language only; and the declaration respecting previous treaty stipulations in regard to trade marks, signed at St. Petersburg, March 28, 1874, is in English and Russian. In the case of the Ottoman Porte, the first treaty concluded with that government by the United States, that of May 7, 1830, was signed in French by the

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American commissioners [1] and in Arabic by the Turkish plenipotentiary; but all the rest are in English and French. The language of each government usually occupies the left-hand place in the counterpart which it is to retain. Where a treaty is framed in two languages the question has sometimes arisen, in case of a divergence of meaning between the versions, which language is to be regarded as authoritative. It has been held by the supreme court of the United States that, when a treaty is executed in more than one language, each language being that of a contracting party, each document so signed and attested is to be regarded as an original and the sense of the treaty is to be drawn from them collectively.[2]

In view of the differences in rank among states, the act of signing a treaty in former times often caused considerable friction among the plenipotentiaries. The question of precedence was a source of much contention, and sometimes even placed the adjustment of important international matters in jeopardy. In order to put an end to this element of discord the principle of the *alternat* was finally introduced. This may be defined as the right of each sovereign or head of a government to have his name appear first in the counterpart of the treaty which he is to retain, and to have the name of his plenipotentiary occupy the first place in the enumeration of the negotiators at the head of that document, as well as among the signatures at the end. It is, therefore, an ingeniously devised rule to solve the question of precedence among the signatory powers and their plenipotentiaries in the written formalities attending the negotiation of treaties. The general application of this device is comparatively recent, and is doubtless due to the principle of equality of states, which is of modern origin. So long as mediæval conceptions and traditions remained influential, the use of the *alternat* was exceptional. Among European monarchs the head of the Holy Roman Empire was long generally recognized

[1] The fourth article, relating to extra-territorial jurisdiction over American citizens, gave rise to a contention between the United States and Turkey as to the correspondence of the French with the Arabic version.

[2] U. S. *vs.* Arredondo *et al.*, 6 Peters, 691.

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as first in dignity. Thus, the emperor was always named first in the copies of the treaties which he concluded with France; but with other princes, the kings of France assumed the precedence they voluntarily ceded to the emperor, and granted the *alternat* only from motives of expediency. This rule became established between France and Great Britain as early as 1546;[1] and it was observed between the courts of France and Russia in the original instruments for the pacification of Teschen in 1779.[2] In the execution of diplomatic instruments it was adopted at the congresses of Utrecht, London and Aix-la-Chapelle; and by the regulation of March 19, 1815 (Annex No. 17 of the final act of the congress of Vienna of June 9, 1815) it became a well-established rule.

It is of interest to note that Great Britain was the last of the European powers to adopt the *alternat* with the United States. Its earliest application by the two governments is found in the convention to regulate commerce and navigation, concluded at London, July 3, 1815; and the rule was employed only after it was insisted upon by the United States.[3] In the five important treaties of the United States with Great Britain, prior to this date, including the treaty of Ghent, the latter government assumed precedence in the preamble, in the clause designating the plenipotentiaries and in the final clause embracing the signatures and seals. On the other hand, France had already conceded the right of the *alternat* to the United States in the treaty for the cession of Louisiana in 1803; and precedence over the United States in treaties was last assumed by the Netherlands in 1782, by Sweden in 1783, by Spain in the treaty of San Lorenzo el Real in 1795 and by Prussia in 1799. With respect to Spain Secretary Adams insisted with the Spanish minister, Señor de Onis, upon the employment of the *alternat* in the treaty of cession by Spain of East and West Florida, known as the treaty of amity, settlements and limits,

[1] Pradier-Fodéré, Cours de droit diplomatique, I, 107.

[2] Martens, Le guide diplomatique, vol. ii, part i, pp. 133, 134.

[3] Mr. Monroe, secretary of state, to Mr. Adams, March 13, 1815. See Mr. Adams, secretary of state, to Mr. Rush, November 6, 1817. — MS. Inst. Ministers, cited in Wharton, International Law Digest, II, 2.

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concluded at Washington, February 22, 1819. Señor de Onis, at the time, indicated that he might deliver a protocol against its use being thereafter ever drawn into a precedent, but Mr. Adams met the suggestion by declaring that thereafter the government of the United States would never conclude a treaty with Spain without the observance of this mode.[1]

Where there are more than two contracting parties to a treaty who admit of the *alternat*, article 7 of the regulations of the congress of Vienna of March 19, 1815, provides that the order to be followed in the signatures other than the first shall be decided by lot. At the congress of Vienna itself the representatives of the different governments also had recourse to the alphabetical order in signatures. Thus it was agreed in the conference held at Paris, November 4, 1815, between the plenipotentiaries of Austria, Great Britain, Russia and Prussia, concerning the form to be observed in the acts of ratification of the treaties of Paris and Vienna, that, in the formula of the ratification of the final act of the congress of Vienna, each ratifying power should take the first place in the counterpart reserved for it, and the six others should sign in alphabetical order — that is to say, according to the initial letter of the name of each country.[2]

At the present day, then, the practice is to use the *alternat* in its simple form, where there are only two signatories, or in combination with the other systems, where there are more than two. The alphabetical order seems, on the whole, to be preferred to that of the lot; it was the one employed in the treaty of Paris of March 30, 1856, in the treaty of Berlin of 1878, and in the Postal Union convention of July 4, 1891, not to mention many others.

Though the forms already described are generally followed in the conclusion of treaties, it occasionally happens that each of the contracting parties delivers to the other a copy of the treaty signed by itself alone. An example of this is the treaty of commerce and navigation, concluded between the

[1] Memoirs of John Quincy Adams, IV, 271, 272.

[2] De Clercq, Recueil des traités de la France, tome 2, 1803–15, p. 632.

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United States and the Ottoman Porte, May 7, 1830. This practice, however, is of rare occurrence; and a document so executed is generally more in the nature of a declaration and counter declaration than of a treaty.

II.

Ratification is the act by which a sovereign power declares its acceptance of a treaty negotiated and concluded by its plenipotentiary: it is the approval by a government of the negotiations conducted by its agent or agents. The procedure by which this act is performed varies widely in different countries. The chief divergencies will appear in the following review.

In the United States ratification is the act of the president after the Senate has advised and consented to it.[1] It is an executive act, and the Senate's consent is given in its executive capacity.[2] The full and complete treaty-making power is vested, therefore, exclusively in the president and the Senate. In the creation of a treaty they alone take part. In the execution, however, the House of Representatives participates in certain contingencies, but always indirectly. This is the case when subsequent legislation becomes requisite to carry the provisions of a treaty into effect. Although it has been held by eminent legal authorities that it is the constitutional duty of Congress to pass the laws requisite for the execution of a treaty, Congress has, in fact, omitted or refused to pass such laws, thus rendering the treaty inoperative. An instance of this kind was that of the commercial reciprocity convention with Mexico, concluded January 20, 1883. In that case both governments failed to pass the necessary legislation, although the limit of time fixed by the convention was twice extended.[3] The convention finally expired May 20, 1887, without ever having been executed.

[1] Constitution of the United States, article II, section 2.

[2] There is some difference of opinion on this point. The weight of authority among constitutional writers, however, seems to favor regarding the Senate's consent as an executive act.

[3] On February 25, 1885, and May 14, 1886.

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A singular case arose under the convention between the United States and France, concluded July 4, 1831. In that instance the fulfillment of the agreement was first delayed by a refusal of the French Chambers to provide the required appropriation. They then voted the appropriation, but inserted in the law a clause stipulating that the United States government should withdraw in writing certain strictures on France in President Jackson's message to Congress in relation to her delay in fulfilling treaty obligations. The result was a complete rupture of diplomatic relations between the two countries, with threats of reprisals and war. The incident finally terminated peacefully, however, and the French government in 1835 announced its readiness to pay.[1]

After a treaty has been signed by the plenipotentiaries, the counterpart retained by the United States government is transmitted by the president of the United States to the president of the Senate. It is received in executive session and referred to the standing committee on foreign relations, which subjects it to careful examination and discussion, and often proposes amendments. It is then reported back — favorably or unfavorably — to the Senate by the chairman. If after debate, or even without discussion arising, two-thirds of the senators present concur in advising and consenting to its ratification, an attested copy of the resolution embodying this action of the Senate, signed by the secretary of the Senate, is attached to the treaty, which is then returned to the president. If the treaty passes the Senate in an amended form, the amendments, as stated in the Senate resolution, are subsequently written in the instrument of ratification. The act or instrument of ratification, written on two sheets of the treaty document left blank for that purpose, immediately precedes the text of the treaty as originally signed. It is signed by the president and

[1] S. E. Doc. 17, 1st Sess., 23d Cong.; H. E. Doc. 117, 1st Sess., 24th Cong.; H. E. Doc. 2, 2d Sess., 23d Cong., 543; 11 Debates, part ii, appendix, 4, 5; *ibid.*, 215; *ibid.*, part i, 103, 200; H. E. Doc. 136, 2d Sess., 23d Cong.; H. E. Doc. 174, 2d Sess., 23d Cong.; H. R. 133, 2d Sess., 23d Cong.; 11 Debates, part ii, 1633–1634; for the debate, see 1531–1565, 1570–1634; Docs. with president's message, 1st Sess., 24th Cong.

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countersigned by the secretary of state, and the seal of the United States is affixed thereto under a warrant from the president.

It has sometimes occurred that, after a treaty has been signed by the plenipotentiaries, the president, in the exercise of his constitutional prerogative, decides not to send it to the Senate to obtain the advice and consent of that body necessary for its ratification. He thus practically cancels the negotiations of his plenipotentiary, and the treaty is abandoned before completion. As an example, among several of this kind, may be mentioned the treaty concluded between the United States and Great Britain, December 31, 1806. It was rejected by President Jefferson without submitting it to the Senate, on the ground that it contained no abandonment by Great Britain of her claim of the right to impress American citizens. Again, a treaty, after submission to the Senate, may be withdrawn from the consideration of that body by request of the president. Several instances of this kind have occurred in recent years. The commercial reciprocity treaty with Spain, concluded November 18, 1884, and submitted to the Senate by President Arthur, was withdrawn by President Cleveland "for reëxamination" and was abandoned. Similar cases are that of the Nicaragua Canal convention with Nicaragua, concluded December 1, 1884, and withdrawn from the Senate March 13, 1885, and that of the Hawaiian annexation treaty, concluded February 14, 1893, and withdrawn March 9, 1893.

It is also not an infrequent occurrence that a treaty submitted by the president to the Senate either fails to be acted on or is acted on unfavorably by that body. Sometimes it is not reported back from the committee on foreign relations; not infrequently it is rejected by the Senate upon being submitted to a vote. An example of the latter kind was afforded by the treaty concluded April 12, 1844, providing for the annexation of Texas. The Senate, on June 8, 1844, returned the treaty to the department of state with a resolution refusing its advice and consent; and the incorporation of Texas into the Union was subsequently made by a joint resolution of Congress, approved March 1, 1845. A like case was the rejection

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by the Senate, on June 30, 1870, of the Dominican annexation treaty, concluded November 29, 1869; and a most notable instance within this year was the refusal, May 5, 1897, of the Senate to give its advice and consent to the ratification of the much-discussed arbitration treaty with Great Britain of January 11, 1897.

It has sometimes happened that, even after the Senate has acted favorably on a treaty, the president has abstained from ratifying it. This was the case with the treaty with China for the exclusion of Chinese laborers, concluded March 12, 1888. The Senate gave its assent, after amending the treaty, May 7, 1888, but no further steps were taken to perfect it. In this instance, however, certain amendments were proposed by the Chinese government which were unacceptable to the president.

It is perhaps pertinent to state here that the regular method of making a treaty is departed from by the United States only in regard to postal, money-order and parcels-post conventions. Under the law of June 8, 1872,[1] the postmaster-general is vested with the power to make such conventions, which become binding without further action after they are signed by him and approved by the president. In these cases an act of Congress is once for all substituted for the advice and consent of the Senate in each separate case. The most important convention of this kind is the Universal Postal-Union convention, concluded at Vienna July 4, 1891. It was entered into by forty-three governments; and this number has been augmented by subsequent adhesions, so that at present the list of signatories includes practically all organized governments except that of China.[2]

[1] "That for the purpose of making better postal arrangements with foreign countries, or to counteract their adverse measures affecting our postal intercourse with them, the postmaster-general, by and with the advice and consent of the president, may negotiate and conclude postal treaties or conventions, and may reduce or increase the rates of postage on mail matter conveyed between the United States and foreign countries." — Section 167 of "An act to revise, consolidate and amend the Statutes relating to the Post-Office Department."

[2] Korea and the Orange Free State entered the union by convention concluded at Washington in June of the present year, on the occasion of the meeting of the congress of the union at that place. China is expected to enter soon.

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In addition to this general agreement, the United States government is a signatory to two other postal conventions, one with Mexico of April 4, 1887, and one with Canada of January 19, 1888. The act above referred to provides also for the conclusion of money-order conventions.[1] The first of these entered into by the United States was that with Italy, April 20, 1877. At the present day our government is a signatory to thirty-five conventions of that character, and to thirteen parcels-post conventions, authorized under the general terms of the same law.

It is also to be observed that in certain matters the government of the United States has occasionally made a binding agreement with another government through a mere exchange of notes. This method is sometimes adopted where the matter to be agreed upon is simple in character and the arrangement is regarded as merely temporary. Such a method of procedure has the advantage — very important in some cases — of avoiding the intricacies of ratification; but its employment is nearly always based upon the authority of an act of Congress. Thus the understanding reached between the Swiss minister and the secretary of state by the exchange of notes of April 27 and May 14, 1883, respectively, concerning the registration of trade-marks in the two countries, became a binding agreement by virtue of the act of Congress approved March 3, 1881, providing for such contingency. Under the same law an agreement was also effected on the same subject by an exchange of notes between the minister of the Netherlands and the secretary of state on February 10, 1883, and February 16, 1883, respectively. In connection herewith may be mentioned the ten[2] international

[1] "That the postmaster-general may conclude arrangements with the post departments of foreign governments, with which postal conventions have been or may be concluded, for the exchange, by means of postal orders, of small sums of money, not exceeding fifty dollars in amount, at such rates of exchange and compensation to postmasters, and under such rules and regulations as he may deem expedient; and the expenses of establishing and conducting such system of exchange may be paid out of the proceeds of the money-order business."—Section 103.

[2] Brazil, Dominican Republic, Spain (for Cuba and Porto Rico), Guatemala, Germany, Great Britain (for her West India possessions), Nicaragua, Honduras, Austria-Hungary and Salvador.

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agreements, commonly known as reciprocity treaties, made during the years 1891 and 1892. They were negotiated pursuant to section 3 of the tariff act of October 1, 1890, and repealed by the general terms of the tariff act of August 28, 1894. Each was consummated by exchange of notes and subsequent proclamation of the president. The question of their constitutionality has been raised, but never judicially determined. The argument advanced against their validity was that, having been made under the authority of an act of Congress, which required but a majority vote of both houses, they had not conformed to the requirement, essential in treaties, of approval by a two-thirds vote of the Senate.

In this category may be placed, although somewhat different in character from the above, the international agreements reached by declaration, protocol and *modus vivendi*. It is not customary for the executive to submit for approval to the Senate arrangements of this kind. Declarations and protocols are signed either separately or jointly by the plenipotentiaries. They are employed in relation to private claims or to mere matters of form, or are purely explanatory of provisions in a concluded treaty or convention, concerning which the contracting parties, anticipating the possibility of doubt with regard to the exact meaning, agree upon an interpretation in advance. As examples of this last kind may be cited the protocol, signed January 30–February 10, 1890, explanatory of the scope and effect of article 1 of the treaty of the United States with Greece, concluded December 10–22, 1837, relating to the reciprocal intercourse and trade of the citizens and subjects of either country; and the protocol of the conference and declaration concerning judicial procedure, signed at Madrid by the United States minister and the minister for foreign affairs of Spain, January 12, 1877. The *modus vivendi*, on the other hand, is more in the nature of a treaty, though it is not customary to submit it to the Senate for approval. It has all the characteristics of a treaty except that its stipulations are expressly provisional and tentative. It is usually agreed upon as an *ad interim* arrangement to suspend a diplomatic contro-

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versy, pending a more comprehensive and permanent settlement thereof by a treaty. The question of its constitutionality has been at times raised, but never authoritatively determined.

In Great Britain the making of a treaty is the prerogative of the crown. As Blackstone has well expressed it, "what is done by the royal authority with regard to foreign powers is the act of the whole nation."[1] The queen's ratification of a treaty does not, therefore, require the sanction of Parliament, except where the provisions thereof exceed her prerogative or come within the constitutional power appertaining to Parliament. This is the case when a treaty involves either a charge on the people or a change in the law of the land. While such a treaty may be made by the queen, it cannot be carried into effect without the sanction of Parliament. Treaties of this kind are therefore made subject to the approval of Parliament, and are either submitted for its approval before ratification or are ratified under condition.[2] Such are treaties of commerce, which might require a change in the character or amount of duties charged on exported or imported goods, or those providing for an alteration in the criminal or municipal law. With the exception of treaties of this class requiring legislation, it is not usual to lay treaties before Parliament until after ratification. After the conclusion of important negotiations with the representatives of any foreign state, it is usual for the government to communicate the result to Parliament, and to declare what is the course which the government proposes to take in regard to the question involved. If either house is of opinion that the government has failed in its duty in any respect, it may then, by any line of conduct it may think proper, make known to the crown its opinion upon the subject. For while the initiation of a foreign policy is the prerogative of the crown, to be exercised under the responsibility of constitutional ministers, it is the duty of Parliament, when the result of the negotiations con-

[1] Blackstone, vol. i, bk. i, ch. vii, p. 189.

[2] Anson, The Law and Custom of the Constitution, vol. ii, the Crown, pp. 50, 51. See also Démombynes, Constitutions Européenes, tome 1, p. 11; Dicey, The Law of the Constitution, p. 391; Sheldon Amos, Fifty Years of the Constitution, pp. 387–389.

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ducted by ministers has been communicated to it, to criticise, support or condemn that policy, as the interests of the nation may seem to require.

In Germany all treaties with foreign countries relating to matters which, according to the imperial constitution, are regulated by the legislature of the empire, require for their ratification the approval of the two houses (*Bundesrath* and *Reichstag*) in the forms of ordinary legislation. Through the same procedure by which ordinary laws are submitted to the emperor for promulgation, treaties are referred to him for ratification. Under the accepted theory of the constitution the approval of the *Reichstag* is the preliminary without which the *Bundesrath* cannot declare the treaty constitutionally binding; and the consent of the *Bundesrath* is the preliminary without which the emperor cannot give the foreign state the promise that the treaty shall take effect. The exceptional requirements of the constitution in case of legislation that involves modification of the organic law are, of course, applicable also to a treaty of like effect; as, for instance, if it changes the boundaries of the territory of the empire, or if it encroaches upon the reserved rights of individual states of the empire.[1] There is nothing in the constitution of the German Empire to prevent any of the constituent states from entering into a treaty with a foreign power on any matter not subject to the jurisdiction of the empire.[2] This right, however, has never been exercised; though many of the old treaties with the several constituent states remain in force.

In France, legislative sanction becomes necessary only in the cases of treaties of peace and of commerce, and of such as engage the finances of the state or relate to the personal status and the property rights of Frenchmen abroad.[3] A treaty of this class is submitted to the Senate and Chamber of Deputies, with a bill introduced by the government to authorize it to execute

[1] Laband, Das Staatsrecht des Deutschen Reiches, p. 108.

[2] *Ibid.*, pp. 115, 116.

[3] Loi constitutionnelle sur les rapports des pouvoirs publics, 16–18 juillet, 1875, article 8.

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the act of ratification; and such bill is passed or rejected, like any other, by the ordinary majority in both houses. But so important a treaty as that of Berlin, concluded July 13, 1878, which gave a guarantee to the preliminary treaty of peace of San Stefano, and paved the way to the definitive treaty of Constantinople of February 8, 1879, between Russia and Turkey, was ratified by President MacMahon, without the authority of the Chambers;[1] and this act was regarded as constitutional. Protectorate treaties with uncivilized or half-civilized nations are ratified by the president without legislative action.

The Italian constitution divides treaties into two classes, according as they do or do not relate to the national finances or modify preëxisting law.[2] The procedure in ratification of the first class, foremost among which are customs treaties and treaties of commerce and navigation, is as follows: As soon as the convention is signed it is presented to the Senate and the Chamber of Deputies by the minister for foreign affairs, in conjunction with the other ministers whose departments the provisions of the treaty affect, and is accompanied by the draft of a law ordering its full and entire enforcement. When the draft is approved, it is followed by the exchange of ratifications, if these are required by the treaty or convention itself. After the exchange of ratifications the minister for foreign affairs submits the draft of the law already approved by the Chambers for the sanction of the king. Treaties of the second class do not require presentation to Parliament. After being signed, the exchange of ratifications takes place, if the text of the agreement stipulates such exchange. Following this formality the minister for foreign affairs, conjointly with the other interested ministers of state, presents for the king's signature a decree ordering the execution of the treaty.

The king of Spain needs authorization by a special law to ratify treaties of offensive alliance, special treaties of com-

[1] Lebon, Droit public de la République Française. This treaty was not in the nature of a treaty of peace to France, as that country had not participated in the war.

[2] See "Statuta fondamentale del Regno," article 5.

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merce, treaties which provide for subsidies to a foreign power and all such as affect the private rights of Spaniards. In no case can the secret articles of a treaty conflict with the public articles of a treaty.[1] In Mexico ratification is the act of the president, upon approval of the treaty by the Senate, acting by simple majority of a quorum.[2] Under the other Spanish-American governments ratification requires, without exception, legislative, and not merely senatorial, sanction, several of the states having, however, only one house.

The constitution of Japan vests all matters relating to foreign intercourse in the emperor with the advice of his ministers, the diet taking no part therein. The power to make treaties is therefore an imperial prerogative,[3] and the act of ratification is an act of the sovereign alone. Each treaty is countersigned, however, by the minister president and the minister for foreign affairs. In China, as the emperor is the enactor of all laws, his sanction is all that is necessary for the ratification of a treaty. In practice, however, he has never been known to ratify a treaty against the wishes of the Tsungli-Yamen. In Turkey the sultan ratifies a treaty by merely writing on it "let it be so," no sanction other than his own being requisite to insure its operation throughout his dominion.

The refusal of a government to ratify a treaty duly signed by its plenipotentiary naturally absolves the other contracting government from all obligations in connection with it. A treaty is not, like an ordinary contract, voidable on the ground of duress; nor are the acts of its plenipotentiaries as binding on their sovereigns as they would be under the ordinary law of agency.[4] Publicists of the past held, in general, that the conclusion of a treaty by duly empowered agents made the agreement binding between the contracting governments,

[1] Spanish constitution of June 30, 1876, title vi, article 55.

[2] Mexican constitution, title iii, article 85, paragraph 10.

[3] See the constitution of the Empire of Japan, article xiii; Commentaries on the constitution of the Empire of Japan, by Count Hirobumito, translated by Miyoji Ito.

[4] Holland, The Elements of Jurisprudence, ch. xvii, p. 348.

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unless subsequent ratification was expressly reserved. On the other hand, the view of modern writers on public law, such as Martens, Bluntschli, Heffter, Geffken, Amari, Pradier-Fodéré, Wheaton and others, is to the effect that only ratified treaties can be considered binding. This is clearly the safer and more practical rule, and is observed without exception by the nations of to-day. Indeed, the acts of public ministers, even when armed with full powers, have from very early times been regarded as subject to ratification.[1] A refusal to ratify a treaty, however, should be based, as Vattel has remarked, upon "strong and solid reasons."[2] Whether, in practice, the reasons advanced have always been of a character sufficiently substantial, may perhaps be questioned. As instances of such refusals may be cited the declination of the Emperor Alexander I of Russia to ratify the treaty with France, concluded July 20, 1806, on the ground that his plenipotentiary had exceeded the powers granted to him; the refusal on the part of France to ratify the treaty concluded in 1841 with Austria, Russia and Great Britain for the suppression of the slave trade, on the ground that it could not permit its vessels to be searched for that purpose;[3] and the refusal of the Chinese government to ratify the treaty of Livadia, concluded with Russia September 20, 1879.

III.

The exchange of ratifications is the act whereby each plenipotentiary formally submits to the other the proofs that the treaty has been ratified by his government. The plenipotentiaries performing this act are not always those who have signed the treaty. They are different when, as is not infrequently the case, the ratifications are exchanged at a place other than that at which the treaty was concluded. Thus, a treaty may be concluded in Washington between the secretary of state and an ambassador or a minister, while its ratifications

[1] Cf. Barbeyrac, Histoire des anciens traités, *etc.* (Amsterdam, 1739), part ii, p. 295. [2] Vattel, Droit des gens, l. ii, par. 156.
[3] Von Holtzendorff, Handbuch des Völkerrechts, pp. 17, 18.

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may be exchanged at the capital of the other government, between the minister for foreign affairs of that government and the diplomatic representative of the United States accredited to it.

As before stated the exchange of ratifications is an essential formality in perfecting a treaty. For effecting this exchange there are made two copies of the treaty, including the signatures of the plenipotentiaries. Taking, for example, a convention between the United States and Great Britain, to the American copy the president attaches his ratification, which is almost word for word the same as the ratification of the American counterpart of the original treaty. The only difference is that, while the act of ratification of the original treaty precedes the text, the act of ratification of the exchange copy is divided into two parts, the text of the treaty being inserted between them.[1] To the British copy the queen's ratification is similarly attached.[2] The exchange by the plenipotentiaries

[1] Thus:

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Know ye, that whereas a convention between the United States of America and . . . extending for a period of . . . years from . . . concerning . . . was concluded and signed by their respective plenipotentiaries at Washington, on the . . . day of . . . a true copy of which convention is, word by word, as follows:

[Here follows convention.]

And whereas the Senate of the United States, by their resolution of . . . (two-thirds of the senators present concurring therein) did advise and consent to the ratification of the said convention:

Now, therefore, be it known that I . . . President of the United States of America, having seen and considered the said convention, do hereby, in pursuance of the aforesaid advice and consent of the Senate, ratify and confirm the same and every article and clause thereof.

In testimony whereof, I have caused the seal of the United States of America to be hereunto affixed.

Given under my hand at Washington, the . . . day of . . . in the year of our Lord . . . and of the Independence of the United States the . . .

[President's signature.]

By the President:

[Secretary's signature],

Secretary of State.

[2] Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India, *etc.*, To all and singular to whom these presents shall come, Greeting!

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of the copies thus ratified has the effect of placing the United States government in possession of the queen's act of ratification, and the British government, of the president's. Of the counterparts of the original treaty it was seen that each government retained its own copy, and consequently its own subsequent ratification. It will be observed, therefore, that after the exchange of ratifications has been effected, each government has in its possession, first, a counterpart of the original treaty with its own ratification, and, second, a copy of the treaty, with the ratification by the head of the other government.

The authority to exchange the ratifications is granted to each plenipotentiary by a full power from his government. The full power granted to an American plenipotentiary by the president to effect an exchange of ratifications is somewhat different in wording from that given for the negotiation and conclusion of a treaty; but, like the latter, it requires the seal of the United States to be affixed under a warrant from the president. A record of the meeting of the plenipotentiaries at which the exchange of ratifications is effected is always kept: it is

Whereas, a convention between us and our good friends The United States of America was concluded and signed at Washington on . . . in the year of our Lord . . . by the plenipotentiaries of us and of our said good friends, duly and respectively authorized for that purpose, which convention is, word for word, as follows:

[Here follows convention.]

We, having seen and considered the convention aforesaid, have approved, accepted and confirmed the same in all and every one of its articles and clauses, as we do by these presents approve, accept, confirm and ratify it for ourselves, our heirs and successors; engaging and promising upon our royal word, that we will sincerely and faithfully perform and observe all and singular the things which are contained and expressed in the convention aforesaid, and that we will never suffer the same to be violated by any one, or transgressed in any manner, as far as it lies in our power. For the greater testimony and validity of all which, We have caused the great seal of our United Kingdom of Great Britain and Ireland to be affixed to these presents, which we have signed with our royal hand. Given at our court at Windsor Castle, the . . . day of . . . in the year of our Lord . . . and in the . . . year of our reign.

(Signed) VICTORIA, R.Q.

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drafted in the nature of a minute and is technically termed a protocol of exchange.[1]

As it sometimes occurs that the ratification is refused by a government and a treaty thus fails after attaining only the first stage in its creation, so too does it exceptionally happen that, after the treaty has been ratified, the exchange of ratifications is for some reason withheld, and the agreement is cancelled after reaching its second stage. An instance of this kind is to be found in the naturalization convention concluded between the United States and the Ottoman Porte, August 11, 1874, which was duly ratified, but the ratifications of which were never exchanged. So also, the treaty of peace and amity concluded between the United States and the king of Belgium January 23, 1833, was duly ratified by the United States February 15, 1833, but no exchange of ratifications was effected.

It is the recognized practice to stipulate in the final article of a treaty the time within which the ratifications are to be exchanged, or, at least, to declare that they are to be exchanged as soon as possible. It is also usual to state at what place the exchange shall be made. Although the provision fixing the time for the exchange is in general carefully observed, there are instances where it has been violated without invalidating the treaty. Thus the treaty of amity, settlement and limits, concluded between the United States and Spain February 22, 1819, stipulated that the ratifications "shall be exchanged in six months" from the time of signing, "or sooner if possible"; but the exchange was actually effected just two years after-

[1] PROTOCOL OF EXCHANGE.

The undersigned plenipotentiaries having met together for the purpose of exchanging the ratifications of the convention signed at . . . January . . . 18 . . . between the United States of America and . . . for the purpose . . . and the ratifications of the convention aforesaid having been carefully compared, and found exactly conformable to each other, the exchange took place this day in the usual form.

In witness whereof, they have signed the present protocol of exchange, and have affixed their seals thereto.

Done at . . . this . . . day of . . . one thousand eight hundred and . . . .

[Signatures of plenipotentiaries.]

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wards,[1] the Senate in a resolution giving its advice and consent to the ratification a second time. An instance of even greater delay, but in connection with a less important agreement, where it was stipulated that the ratifications should be exchanged "as soon as possible," was the convention between the United States and Spain, concluded August 11, 1802, where the ratifications were not exchanged until December 21, 1818. Where a number of governments are parties to a treaty, the formality of exchanging ratifications is simplified by the designation of one of the governments to receive all the ratifications and to give notice thereof to all the other signatory powers.

IV.

Proclamation is the formal act by which the people of a country are notified by their government that a treaty has been made between it and a foreign power or powers, and are enjoined to observe and fulfill the provisions thereof. The proclamation is issued by the head of the government.

In Great Britain treaties are not formally proclaimed as in the United States. Where a treaty requires the sanction of Parliament, it takes effect from the date prescribed by the legislation on the subject. Where no act of Parliament is required, it takes effect from the date of the exchange of ratifications, and is published in the official *London Gazette* and laid before Parliament as early as possible thereafter. In Great Britain, therefore, a treaty becomes operative municipally at the same time that it does internationally.

In Germany a treaty, as an international transaction, requires neither a proclamation, in the legal sense of the word, nor publication for the purpose of making it actually known. Secret treaties have the same international force as those which are

[1] The delay occurred because the Spanish government withheld its ratification. It demanded "as a condition of the ratification that the United States should abandon the right to recognize the revolutionary colonies in South America, or to form other relations with them." (Annals, 1st Sess., 16th Cong., p. 679.) The principal reason for the delay, however, was a question which arose as to certain grants of land in Florida.

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published. On the other hand, a law commanding the execution or observance of a treaty would require publication like every other law; but no law of this character is, in fact, ever framed and promulgated in the German Empire. The treaty itself is printed in the *Reichsgesetzblatt* (*Imperial Law Journal*), without any mandatory clause, without any mention of the assent of the *Reichstag* and *Bundesrath*, even without the signature of the emperor and without the counter-signature of the chancellor of the empire. The chief international act, the document of ratification, is not published: a notice that the ratification of the treaty has taken place is merely added after the printed text, without any signature or authentication. This kind of publication does not conform to the requirements of the imperial constitution[1] as to laws, and it cannot be claimed that the mere printing of a treaty in the *Imperial Law Journal* has the same force and effect as a regular publication. There is reason to doubt, therefore, whether the kind of publication which has hitherto been customary gives to the provisions of the treaty the force of law when they fall within the province of legislation. The defects of this method of publication have been generally recognized and criticised by the German writers who have discussed this subject recently, but without avail.[2]

In France the law authorizing the government to ratify a treaty is proclaimed, like all other laws, by publication in the *Journal Officiel*. The publication is made in the name of the president of France and must take place within one month after the law is passed.[3] The treaty itself, however, is usually not promulgated with the law authorizing ratification, but later and by a special decree.[4] Unless it contains a special provision with reference to the time when it is to go into effect,

[1] Articles I and XVII.

[2] Laband, Das Staatsrecht des Deutschen Reiches, pp. 108, 109.

[3] Lebon, Droit public de la République Française; Loi constitutionnelle sur les rapports des pouvoirs publics, 16–18 juillet, 1875, article 7.

[4] It reads as follows: "The Senate and the Chamber of Deputies having approved the treaty signed the . . . between France and . . . and the ratifications of this act having been exchanged at . . . on the . . . said treaty, which follows, shall receive full and complete execution."

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a treaty, like any other law, is binding in Paris one full day after its publication, and in any other part of France one day after the number of the *Journal Officiel* that contains the treaty is received there.[1] This method, like many other rules of French administrative law, appears to be more systematic and practical than those adopted by other governments.

In Italy, after the king has sanctioned the law of ratification, it is forwarded by the minister for foreign affairs to the minister of grace and justice, who, after having it entered in numerical order in the official record of laws and decrees of the kingdom, transmits it to the ministry of the interior for publication in the *Official Gazette*. From that moment the treaty is in full force in the kingdom.

In Mexico a treaty is given publicity immediately after the ratifications have been exchanged. It is printed in Spanish and in the language of the other contracting party in the official journal of the Mexican federal government, and thus becomes statutory. Copies are mailed to the Congress, the Senate, the cabinet departments, the supreme court of Mexico and to the several governments of the Mexican states and territories, the latter inserting the treaty in their official journals. A similar method is observed by the other Spanish-American countries.

In Japan a treaty is proclaimed by the publication in the *Official Gazette* of an ordinance, over the sign manual of the emperor and the counter-signatures of the minister president and the minister for foreign affairs, announcing the conclusion and ratification of the treaty and commanding its proclamation.

In China treaties are not proclaimed. They are merely communicated to those departments of the government which their contents may concern. In Turkey, too, proclamation is not necessary. The treaty is published, however, but seldom *in extenso*, in the Turkish newspapers, the government having no official gazette. This absence of the full publication of the treaty has sometimes caused doubt and embarrassment as to

[1] Decree of November 5, 1870.

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its provisions, and necessarily occasions disputes that otherwise might not arise.

In the United States the proclamation is a written instrument, and is attached to the American counterpart of the original treaty, but not to the exchange copy. The proclamation embodies the text of the treaty, recites its conclusion and ratification and the exchange of ratifications, and calls for the observance of its provisions. It is signed by the president and countersigned by the secretary of state, and the seal of the United States is affixed thereto.[1] The treaty is then immediately printed in pamphlet form by the state department for distribution. The courts of the United States, however, recognize a treaty as officially published only when it is printed in the United States Statutes: it is then accepted as evidence without certification. The pamphlet form above mentioned is not held as evidence unless certified as a true copy of the original treaty. The supreme court has held that a proclamation takes effect when it is signed by the president and sealed

[1] BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

WHEREAS, a convention between the United States of America and the . . . concerning . . . was concluded and signed by their respective plenipotentiaries at the city of . . . on the . . . day of . . . 189 . . . the original of which convention being in the English and . . . languages, is word for word as follows:

[Here copy of convention is inserted.]

And, whereas, the said convention has been duly ratified on both parts, and the ratifications of the governments were exchanged in the city of . . . on the . . . day of . . . one thousand eight hundred and . . .

Now, therefore, be it known that I . . . President of the United States of America, have caused the said convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at Washington, this . . . day of . . . in the year of our Lord one thousand eight hundred and . . . and of the Independence of the United States the one hundred and . . . .

[Signature of President.]

By the President:

[Secretary's signature],

Secretary of State.

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with the seal of the United States, officially attested, and that its publication in the newspapers is not requisite to make it operative.[1] With the adding of the proclamation a treaty reaches its formal completion in the United States, and from that time becomes of equal force with any law thereof.[2] A treaty made conformably to the constitution of the United States in substance and form has, therefore, the legal effect of repealing all preëxisting federal law in conflict with it.[3]

It has been held that where no express provision is made, a treaty is binding upon the contracting parties from the date of its signature or conclusion, the subsequent acts required for its perfection having a retroactive effect. Where these later acts, ratification and exchange of ratifications, fail of ultimate execution by any contracting power, the mere signing of the treaty would not, of course, constitute a binding agreement. There is doubtless no government which has not among its diplomatic archives treaty documents which have failed for one reason or another to pass through all the forms requisite for their perfection. Of such unperfected treaties it is a conservative estimate to say that the United States government has about eighty, to which only historical value now attaches, but which furnish most valuable material to the student of our diplomatic history. Nor is this number great when the requirements, constitutional and customary, are considered, of which a treaty of the United States has to run the gauntlet to become perfected.

Of perfected treaties of the United States now in force there are three hundred and two, and this number is steadily increasing. The number of treaties once in force, but which for various reasons have expired in the course of our national existence, is fifty-three. Of these some have been abrogated by Congress,[4] some have expired by their own express limitation and others

[1] Lapeyre *vs.* United States, 17 Wallace, 191.

[2] Constitution of the United States, article vi.

[3] 6 Opinions of Att. Gen., 291 (Cushing, 1854).

[4] Four treaties were abrogated by this method: namely, alliance with France of 1778, amity and commerce with France of 1778, act separate and secret with France of 1778 and the consular convention with France of 1788. They were annulled by an act of Congress, approved July 7, 1798.

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have ceased to have effect in consequence of notice given under the provisions of the treaties themselves. Some, too, have terminated in consequence of the absorption of the other contracting powers into other nationalities ;[1] and others have ceased to exist in consequence of the dissolution of the federations with which they were made.[2]

It is fair to say that if the United States has more than three hundred treaties in force, each of the older great powers has many more than that. Of these only approximate figures can be given, in view of the practical impossibility of ascertaining the number of secret treaties in force. That at least eight thousand treaties and conventions now place the nations of the world under contractual obligations to one another is, however, not a hazardous statement.

V.

It now remains briefly to consider how a government may become a party to a treaty without having been one of its original signatories. This is done by declaration of accession or adhesion. Accession takes place, in the opinion of Rivier, when a state subsequently joins the originally contracting states and enters into their contractual relations in the quality of a principal, acquiring the same rights and assuming the same obligations as they. Adhesion, on the other hand, is less complete, and may pertain only to certain provisions of a treaty. The adhering state does not become a principal party to the treaty, but assumes only the obligation not to hinder its execution. Adhesion, however, may eventually be transformed into accession.[3] In the United States the practice has been to employ the terms synonymously.

The manner in which governments declare their accession or adhesion is not uniform, depending partly upon the stipulation

[1] The treaties of the United States with Algiers of 1795, 1815, 1816; with Hanover of 1840, 1846, 1855; with Nassau of 1846.

[2] The convention of peace, friendship, commerce and navigation, concluded with the Peru-Bolivian Confederation November 30, 1836, terminated 1839.

[3] Alphonse Rivier, Principes au droit des gens, tome 2, p. 91.

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of the treaty providing therefor and partly upon the form of government of the acceding or adhering state. The declaration, however, is always in writing. With the United States the method of acceding or adhering to a treaty resembles in most of its features that of making one. Like a treaty, the act of accession or adhesion requires the advice and consent of the Senate. The treaty to which the government proposes to accede or adhere is copied, and the president's ratification and proclamation are appended thereto. An exchange copy is also prepared, to which the president's ratification is likewise attached. The latter instrument is sent to the United States minister at the capital of that government which by provision in the treaty is authorized to receive such declarations of accession or adhesion and to notify the other signatory powers thereof. The exchange copy is communicated in a note from the United States minister to the minister for foreign affairs, and the date of that note becomes, as a rule, the date of the accession by the government to the treaty. A note of acceptance of the accession is thereupon delivered to the minister by the foreign government through which the accession is effected, and the formality is then completed.

As an example of accession may be mentioned that of the United States government, March 1, 1882, to the convention for the amelioration of the condition of the wounded in armies in the field (the Red Cross convention), concluded at Geneva, between twelve European powers, August 22, 1864.[1] The adhesion of the United States government was given, May 30, 1887,[2] to the convention for the protection of industrial property, concluded at Paris, March 20, 1883, between Belgium, Brazil, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Servia, Spain and the Swiss Confederation. Another

[1] The ratification of the act of accession by the United States, as transmitted to Berne and exchanged for the ratifications of the other signatory and adhesory powers, embraces the French text of the convention of August 22, 1864, and the additional articles of October 20, 1868. The French text is therefore, for all international purposes, the standard one.

[2] The United States minister at Berne to the secretary of state, No. 137, June 4, 1887.

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instance of adhesion was that of Sardinia, January 26, 1854, to the treaty of alliance against Russia, concluded between France and Great Britain April 10, 1854. The method of accession or adhesion is universally recognized, and it may be confidently asserted that to-day there hardly exists a state that has not, at some time during its existence, become a party to a treaty by this method.

VI.

What is the goal to which the continually increasing practice of treaty-making is tending? As we have seen, a perfect network of conventional obligations holds states together. The past isolation of governments has changed into a steadily growing interdependence. To-day the slightest change in the physical condition or in the commercial or financial policy of a country sends its vibrations afar, and often makes itself keenly felt in distant communities. A heavy frost in the orange belt of Florida has the effect of increasing during the next season the cultivation of oranges in Mexico[1] and elsewhere; the prohibition of the importation of American cattle into Germany or France or Belgium at once induces a protest from American cattle dealers, setting our diplomatic machinery in motion against the obnoxious decree or order. Who, indeed, of the great leaders in statecraft of earlier times would have thought of determining the monetary system of a country by international written agreements? And yet to-day this method is suggested by many of the most enlightened men in public life as the best solution of the vexatious financial problem.

It is not the purpose of this article to analyze the cause of these phenomena. This is plainly found in the inventive genius of an age that has directed its effort chiefly to the mastery of time and space, and, as a result of its activity in that direction, has given to the world the steamship, the railroad and telegraph. That the increased facilities of communication are producing a greater dependence of one country upon another

[1] See dispatch to state department from Mr. Thomas T. Crittenden, United States consul general in the city of Mexico, May 29, 1896.

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cannot be doubted. What has made for the independence of the individual has augmented the dependence of the nation.

Are we, then, advancing toward the realization — though the end is yet vague and undefined — of the idea of a *Weltreich?* When the writer, in his student years in Germany, heard this theory of a grand federation of nations advanced for the first time by Bluntschli, it appeared a bit of pure idealism or a poetic fancy. But is it such? Is a universal commonwealth — where the law of nations will have become merged in a great body of municipal law, and where arbitrations, peace conferences and Red Cross conventions will all have served their purpose and passed away — so hopeless of attainment as it once appeared? But no speculation can forecast the course of political evolution; and the effort is profitless while more tangible problems in politics are constantly demanding our best efforts for their solution.

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Legation of the United States,
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THE SOUTHERN FARMER AND THE COTTON QUESTION.

IN dealing with the recent agricultural depression in this country most writers have seemed disposed to seek an explanation in such economic causes and conditions as are operative alike in all sections of the country. It may be conceded that there does exist to-day a distinct agricultural question; and still more readily will it be acknowledged that many causes of a general nature have coöperated, in recent years, to produce, or intensify, the financial distress felt so keenly by the agricultural classes both in our own and in other lands. But it is a mistake to suppose that any explanation of this agricultural crisis can be adequate which does not take into consideration local conditions. In the United States alone the extent of territory is so great, the differences in soil and climate are so marked, and the characteristics of crops and of cultivators are so diverse that economic forces which are seriously felt in one portion of the country make little or no impression elsewhere.

Influences which have contributed to produce financial distress in some sections of the country have, as a matter of fact, really been of direct advantage to other localities. Compare, for example, the condition of the Southern cotton grower with that of the farmer who raises cereals in the Northwest. Each is an important consumer of the other's staple product. The low prices which have brought distress and ruin to the farmer have been of distinct advantage to the cotton grower, and *vice versa*. Again, the two are differently situated with respect to the market for their staples. The price of each product is fixed by the European market, where each comes into competition with similar crops raised in other lands. But as to the supply of this market the Southern cotton growers practically have a monopoly. Two-thirds of all the cotton produced in the world is grown in the United States, and that part of the

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American crop sent to Europe bears a still larger proportion to that sent from other countries. The American wheat grower, on the other hand, feels outside competition much more keenly. Though the United States produces more wheat than any other one country, her crop has for a number of years been less than one-fifth the world's product; while much less than half of this crop finds a market abroad. On the European market our wheat comes into competition, not only with the enormous crops grown in Europe and India, but also with those raised at little expense on the virgin soils of Manitoba, Argentina, Trans-Caucasia and Australasia. The supply from these countries practically fixes the price of wheat on the European markets, and therefore the price of the American wheat consumed at home. When a short cotton crop is reported from America, the price of cotton in Europe immediately advances. A short wheat crop in the United States, however, may have little influence in determining the price of that staple: for example, the crop of 1893 brought on an average thirty cents less per bushel than that of 1891, although the United States produced in 1893 only 396,132,000 bushels as compared with 611,780,000 bushels in 1891.[1]

The Southern planter is, therefore, responsible for the fall in the price of cotton to a much greater extent than is the Northern farmer for the decline in the price of wheat. It follows that to find the source of the agricultural depression in the South, we must search for local causes rather than study those forces, international in their scope and influence, which have had such a marked effect in reducing the prosperity of the Northern farmer. And to understand the operation of these local causes, we must trace the development of Southern agriculture during the last half-century.

I.

Prior to the Civil War cotton was produced for the most part on the large plantations. Almost the only laborers

[1] U. S. Dept. of Agriculture, Synopsis of Crop Report for March, 1896, p. 4.

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known in the cotton fields were slaves, and the methods of farming the land were practically the same as in colonial days. The existence of slavery, taken in connection with certain other circumstances, such as the climate and the character of Southern crops, prevented any considerable immigration from the North and from Europe, and the competition for land was slight. As a consequence the value of farming lands in the South always remained low. As late as 1850 the average value of occupied land in the South Atlantic states was only $5.34 per acre, and in the Southwestern states, $6.26 per acre.[1] Good farming land was always so cheap and plentiful that its owners scarcely regarded it as a permanent investment, and they felt that they could afford to be wasteful of it. Fertilizers were seldom used, and no system of crop rotation was adopted to maintain the fertility of the land. The "twin crops of the South," corn and cotton, were, indeed, often planted in alternate years; but as both of these were "hoed crops," their rotation possessed little value as a means of preventing the exhaustion of the soil.

Aside from these two staples, there were few crops grown in the distinctive cotton belt before the war. An investigation made by the United States Bureau of Agriculture showed that, prior to 1861, cotton occupied, on an average, forty-four per cent of the tillable area of the ten cotton states, and corn thirty-eight per cent. The corn was intended mainly for domestic use and was seldom sold outside the state in which it was produced. It served to fatten the hogs, and with bacon it constituted almost the only food used by the slaves and a considerable portion of the whites. But often not enough corn was produced on a plantation to satisfy the domestic needs, and recourse was had to the product of the North and the West. Thus, as early as 1827, South Carolina was importing annually over 100,000 bushels of Indian corn for domestic use.[2] Cotton was intended to be the only crop raised for the market.

[1] Compendium of Seventh Census, p. 175.

[2] W. B. Seabrook, *American Farmer*, X, 90, 91.

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The effect of this method of farming was, of course, rapidly to deplete the soil of its fertility. Practical exhaustion resulted in a few years on the uplands, and the land was then "turned out" to grow up in briers, sassafras and scrub pines. "A purchaser looking for land, if he found a field without a stump, considered that fact *prima facie* evidence that it was worn out."[1] No planter thought of holding only such land as he wished to cultivate at one time. When he purchased a new tract he did it with the intention of farming it by fractions, "turning out" each successive tract when its cultivation became unprofitable.[2] As the land became exhausted in the old cotton states, the planters either abandoned their farms and removed to the virgin soils of the Southwest, or gave up cotton raising as a regular business and betook themselves to the breeding of slaves for the Western markets.

The methods of farming just described were not characteristic of the cotton states alone. The same system of agriculture was practiced in the Northern colonies and in the Western states during their early years of development: it is the system always pursued by the first settlers in new countries, where fertile land exists in such abundance that its marginal utility is low. But what was peculiar about Southern agriculture was that the evident injury done to the soil by the "one-crop" system had little or no effect in bringing about a change in the methods of cultivation. In the North, the "one-field" system had been abandoned when the land showed signs of exhaustion, and intensive cultivation had been adopted in its place. In New England and the Middle states it was found to be more profitable to rotate the crops and to manure the land than to abandon the farms for Western lands. There only the surplus population was sent to the new states. In the South, however, several important reasons operated to prevent the adoption of a more complex and beneficial system of cultiva-

[1] Report of the Commissioner of Agriculture for 1876, p. 216.

[2] Of the land in farms in the old cotton states, the Carolinas and Georgia, over seventy per cent was unimproved in the decade ending with 1860, while in the New England and Middle states, approximately two-thirds of the land in farms were under cultivation. — Compendium of the Ninth Census, 689.

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tion; and it is to these reasons that we can trace the origin of many of the evils that beset Southern agriculture to-day.

In the first place, many of the crops which, like wheat and other small grains, could be successfully rotated with the hoed crops, were in the South often unprofitable on account of the rust. For other kinds of produce, such as vegetables and fruits, there was no local market. In the ten cotton states there were in 1850 but seven cities of eight thousand or more inhabitants, and in 1860 there were but eleven. With the exception of Indian corn, what the South produced was designed for the world market.

The ready sale which cotton finds at all seasons of the year has made it known throughout the South as "the cash crop"; and this fact alone influences the planter to give it the preference over other crops. Moreover, while the difference between a good and a bad cotton season is very marked, a complete crop failure is of rare occurrence; and, owing to the practical monopoly which the South possesses, the loss threatened by a short crop is often more than compensated for by the higher price which the staple then brings. Hence cotton raising has long been made by the Southern farmer a basis for securing loans.

This system, peculiar to the South, of obtaining advances in money or farm supplies on crops still growing or not yet planted, although practiced more generally in recent years, is not new in that section. It was in operation even in colonial days, before cotton had so much as given promise of becoming one of America's leading staples.[1] With the development of cotton culture, however, the credit system became correspondingly more general. Cotton possessed marked advantages over other kinds of produce as a basis for loans; the planter became more and more dependent for his profits on this single commodity; and when, as not infrequently happened, one year's crop failed to yield him a profit, he was obliged to pledge future crops in order to continue his planting operations. The advances, which in colonial days seem to have been

[1] Ramsay, History of South Carolina, II, 222.

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made by English merchants,[1] were, after cotton had become the leading staple, made by the cotton factors living at the port towns where the cotton was sold, although occasionally they were made by traders in New York.[2] These factors gave credit only on cotton; for they were engaged primarily in handling this commodity, and were thus familiar with the data — as to prices and markets — on which to base their loans. Thus the credit system, once established, helped to perpetuate the "one-crop" system and to cause overproduction of cotton.

A still more important cause of the continuance of the single-crop system in the South is to be found in the employment of slave labor. Slavery has always been found to be most profitable where the system of agriculture is extensive. The slave learns new methods of farming very slowly, and therefore works best when employed in cultivating only one crop. Cotton afforded better opportunities than other crops for the use of slave labor. The methods of cultivation were very simple; no machines and but few and simple tools were required. The amount of land which one person could tend in a day was small, so that it was possible to employ a large number of workers under the direction of a single overseer. The care of a crop from seed-time to harvest spread over three-fourths of the year, and, together with the clearing of new land, furnished continuous employment to the workers. The planter, who had the bulk of his fortune invested in slaves, had an almost uninterrupted use of his capital, which would not have been the case if the slaves had been employed in the cultivation of the cereals or the raising of grasses, vegetables, fruits, *etc.*

The profit in the slave depended upon the finding of a market for his labor, and the best market afforded was an extension of the area of cultivatable lands devoted, in their fresh state, to the production of a crop readily convertible into money, peculiarly suited (as the slave himself) to the climate, and in the cultivation of which muscular

[1] Ramsay, *op. cit.*, 428.

[2] J. H. Lanman, *Hunt's Merchants' Magazine*, IV, 224.

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labor should count for much and intelligence and science for but little.[1]

These conditions, rendered necessary by the use of slave labor, prevented the adoption of a mixed system of agriculture or of any plan of crop rotation. Moreover, the fact that the slave, and not the land, was considered the real investment, made it profitable to continue the old methods of farming; for when the land had been cropped in corn and cotton until it had lost its fertility, the planter who decided to migrate to some other part of the country found it easy to take his property with him. There the old methods of farming were continued with the same results.

At the beginning of the war, then, seventy years of cotton culture by slave labor had brought about few changes in the methods of cultivating the soil. The land in many portions of the South had been robbed of its fertility; many of its owners were practically in a state of bankruptcy, with their chattels and future crops mortgaged to the cotton factors; and the great body of laborers had been trained to cultivate but a single crop. In spite of the fact that the South had during all these years possessed a practical monopoly of cotton-raising, the war found her in a much less prosperous condition than were the Northern states at that time.

II.

The changes made necessary in Southern agriculture by the Civil War amounted to an entire revolution, although many of them were not fully realized until some years after the close of that struggle. The large planters, who had in the loss of their slaves been deprived of almost their entire fortunes, were the greatest sufferers from these changes; but the small farmers in the hill country were not unaffected thereby, although for them there were compensating circumstances which made their losses easier to bear. Land, which had been worth little

[1] H. C. White, "The Manuring of Cotton," in "The Cotton Plant," Bulletin No. 33, U. S. Dept. of Agriculture, Office of Experiment Stations, p. 171.

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enough before the war, steadily declined in value for some years thereafter, owing to its owners' lack of capital and to the uncertainty of obtaining labor. Cotton-raising had almost ceased during the war for want of a market, and because of the disorganized condition of affairs in the South. There was an abundance of labor skilled in the cultivation of this staple, but that labor had just obtained its freedom and was inclined to enjoy it in idleness for a time. Encouraged, nevertheless, by the high prices of cotton in both the American and the European markets, the planters set themselves steadily at work to revive the culture of the staple and to mend their broken fortunes.

Attempts were made at first to hire the freedmen under the wage-system, and to continue the old plantation methods of farming in other respects unchanged. The wage-system failed at that time, however, partly because the planters lacked funds for the payment of weekly or monthly wages, while the laborers were unwilling to wait for their money until the crops were harvested, but chiefly because of the unreliability and inefficiency of negro labor. The freedmen had been taught by the practice of their masters to associate freedom with idleness, and it was hard to impress upon them the necessity of steady employment. "To be free was to hunt and fish, and to lounge about the country town; to the women it was to desert outdoor employment and ape in a slight degree the fashions and habits of the more fortunate white race." [1]

The breaking up of the old plantation system soon became inevitable. By 1870 the total value of farming lands, including improvements, in the ten cotton states had fallen forty-eight per cent as compared with 1860. The crop failures had been so numerous and the decline in the price of cotton had been so great — a fall from forty-three cents in 1866 to seventeen cents five years later — that the planters were unable to meet their engagements with their factors, and were compelled to throw their land upon the market at whatever price it would bring. "The ruin seemed to be universal and complete, and

[1] Report of the Commissioner of Agriculture for 1866, p. 573.

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the old plantation system, it then seemed, had perished utterly and forever."[1] The buyers for these lands came not from the North or from Europe, whence the planters had hoped to attract purchasers; nor yet from among the freedmen who, though anxious to become landowners, seldom rose to this rank in the decade following the war; but from one of the least expected sources — from out of that class of poor whites whose wretched poverty and lack of ambition had been proverbial during slavery days. The mania for cotton-growing had again seized hold of the Southern people, in spite of the repeated crop failures, and these poorer classes had become infected with the fever. The cheapness of the lands and the willingness of the merchants to give credit on the prospective cotton crops made it possible for these small farmers to take up the lands which the old planters were so willing to sell. "Never, perhaps," wrote Henry W. Grady, "was there a rural movement, accomplished without revolution or exodus, that equaled in extent or swiftness the partition of the plantations of the ex-slaveholders into small farms."[2] The number of farms of less than one hundred acres each in the ten cotton states increased from 333,058 in 1860 to 517,178 in 1870, and the average size of farms decreased during the same decade from 401.7 acres to 229.8 acres.

This increase in the number of landowners in the South brought with it a corresponding increase in the number of whites engaged in the culture of cotton. Before the war it had been supposed that white labor constituted only about one-tenth of the labor force employed in the cotton fields. By 1876 an investigation, undertaken by the United States Bureau of Agriculture, showed about thirty-nine per cent of the persons engaged in the culture of cotton to be whites. In Texas and Arkansas the whites were in a clear majority. The increase in the amount of white labor employed in the cultivation of the cotton plant has continued without interruption ever since; and when to this increase in numbers is coupled the greater effi-

[1] Henry W. Grady, *Harper's Magazine*, LXIII, 721.
[2] *Ibid.*, 721, 722.

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ciency of the white laborers, it is probably safe to say that not far from three-fourths of the cotton raised in the South to-day is grown by white labor.

The freedmen, then, did not share in this agrarian movement to any considerable extent. As late as 1876 it was shown that only about five per cent of them had become owners of land.[1] Various efforts were made to induce them to take up holdings; but, although they seemed pleased with the idea, their desire for leisure and their extravagance prevented most of them from making crops large enough to pay for their advances at the store, to say nothing of keeping up their annual payments on the land. Renting the land for cash rents was also tried, but seldom proved a success in those parts of the South where the blacks predominated in numbers. The system which was finally adopted and which, with many and various modifications, has become almost universal in farming the cotton lands with negro labor, was the share system, or, as it is known in the South, "the cropping system." The general idea which underlies all the varieties of this "cropping system" is that the laborer shall be given an interest in the crop and shall be made to share the losses which are occasioned by his own idleness and neglect. The tenant under this system usually receives one-half the crop; but if he furnishes his own tools and work animals, he receives two-thirds, sometimes three-fourths, of what he produces. The land thus rented is usually divided into "one-horse" or "two-horse" farms, containing from fifteen to forty acres each; and the tenant and his family are usually left to farm the land after their own fashion, with but little supervision or direction on the part of the owner.

As a transitional method, well adapted to stimulate the industry of the freedmen and to diminish the losses which the planters suffered from the neglect of the crops by the negro wage earners, the "cropping system" seems to have been profitable; but its continuance since the days of industrial reconstruction has been a great misfortune to Southern agriculture. The interest of the owner in the land has been weak-

[1] Report of the Commissioner of Agriculture for 1876, p. 137.

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ened and the farming has been left to be carried on, without guidance, by ignorant and careless tenants who have no interest in improving or even in keeping up the plantations.

III.

The change of agricultural system in the South, accomplished during the years of industrial reconstruction, rendered necessary many other changes in plantation economy and in methods of living in the cotton states. Not the least important of these changes was that in the methods of obtaining credit. I have already mentioned the fact that before the war the planters on the large estates were often obliged to seek credit of the cotton factors in the leading port cities, and to pledge their prospective cotton crops as security for these loans. The successors of these planters, the small farmers, white as well as black, who undertook to carry on cotton cultivation after the breakdown of the old plantation system, were certainly in far less favorable economic circumstances than had been the great planters whom they so largely displaced. The latter had often found it necessary to borrow money to carry on agricultural operations; the former were obliged to have credit in order to obtain the means of subsistence during the raising of the crop. True to Southern traditions and habits, these small producers looked for their profits only to their cotton, and relied mainly on other sections of the country for their food supplies.[1] But with little or no property to serve as security for loans, and with no business standing to recommend them to the money lenders at distant ports, the small farmers were not able to follow in the footsteps of their predecessors by obtaining advances from the cotton factors. Their borrowings had to come, if at all, from some source nearer home.

Simultaneously with the revolution in methods of producing cotton, a transformation also took place in the methods of

[1] Chemical manures, which had come into general use after the discovery of rich phosphate beds in the South at the close of the Civil War, also abetted the natural tendency to confine cultivation to cotton; for these fertilizers were adapted to that crop alone. — H. C. White, "The Manuring of Cotton," *loc. cit.*, 174.

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shipping and marketing it. Many of the factors at the port towns had been ruined during the war by the insolvency of their planter debtors, and had been forced to retire from business. The development of means of transportation and communication had also driven the markets inland. In earlier times the planters themselves consigned their cotton to the ports to be sold for them by the factors; but now a system of interior buying developed, and cotton was collected at the inland towns and railway stations, and sent on a through bill of lading direct to the New England and British mills. The country merchant very generally succeeded the cotton factor as the purchaser of the farmer's cotton. From the country merchant the cotton passed in some instances directly to the agents of the New England and Lancashire mills, who were sent throughout the South, but in most cases it was taken by brokers.

The country merchant, moreover, succeeded the cotton factor, not only as the purchaser of cotton, but also as the furnisher of credit to the growers. The risk which the factor at the port or large market town was unable to take in lending to this class of borrowers, can be assumed by the country merchant, because of his proximity to his customers and his more intimate knowledge of their financial circumstances and business reputation. The credit which he furnishes is seldom given in the form of money loans, and there are nominally no interest charges made for his advances. These usually consist of provisions, especially corn and bacon, tools, farm animals, fertilizers, cotton ties and bagging, household utensils — in fact everything the farmer has to buy. They are almost invariably bought "on time," to be paid for when the crop is harvested and sold. As security for his advances the merchant secures from the farmer at the beginning of the crop season a "crop lien," or chattel mortgage, which is duly attested and recorded at the office of the county recorder or judge of probate. This binds the farmer to deliver to the merchant, as soon as harvested, the crops of cotton, corn, *etc.*, or enough of them to pay the merchant at the ruling market price of this produce for all the

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advances which the farmer has obtained during the raising of the crop. The mortgage also covers future crops, if the crop of the current year is insufficient to pay the indebtedness. It is sometimes further agreed, if not actually specified in the mortgage, that the advancing merchant is to have the marketing of the farmer's entire cotton crop, and that the farmer is to make all his purchases during the crop year of this merchant. There is, however, little necessity for such an agreement. The entire crop is usually needed to cover the indebtedness; and the farmer with his crops mortgaged to one merchant would be unable to purchase of another, except on a cash basis.

In spite of the control over the debtor which this crop-lien system gives the merchant, the risk which he runs, with the losses which he actually suffers as a result of conducting business on such a basis, necessitates extremely high prices for all merchandise sold in this way. Most advancing merchants have two schedules of prices — one for purchasers who buy for cash, the other for "time" purchasers. Prices on a credit schedule are usually from twenty to fifty per cent higher than those on a cash schedule. Thus, flour selling at four dollars per barrel to cash buyers sells for five dollars on a credit basis; bacon selling at ten cents a pound, cash, for twelve and a half cents "on time"; calico selling at five cents a yard, cash, for seven cents, *etc.*[1] As the average length of time which these debts run before payment is not more than six months, the difference between cash and credit prices is equivalent to an annual interest charge of from forty to one hundred per cent.

The extent to which this credit system prevails varies, of course, with localities. It is less common in the more western states, especially Texas, than in the older cotton states; and it is much less prevalent in communities settled chiefly by whites than in those sections of the country where negro croppers are largely employed. But it is characteristic throughout the cotton belt, and to say that three-fourths of the cotton growers

[1] These cash and credit prices were furnished the writer by an advancing merchant in central Alabama.

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are in this sort of dependence on the advancing merchants or factors would not be an extravagant estimate.

Besides its effect in impairing the independence and prosperity of the Southern farmer, the credit system has been largely responsible for overproduction of cotton, and hence for the recent fall in the price. The advantages which cotton possesses as a marketable commodity — owing to the comparatively steady demand for it, the improbability of a complete crop failure and the superb commercial mechanism which has been devised for moving and selling the crop — have given this staple a preference in the minds of the merchants, no less strong than that formerly felt by the cotton factors. Besides, the merchants make their profits largely through the sale of corn and bacon, and it is only natural that they should encourage the farmers to raise cotton rather than those commodities.

In discussing the subject of the overproduction of cotton, and in urging the Southern farmers to reduce their cotton acreage and to grow their own supplies, most Southern writers have, strangely enough, failed to see the real connection between this credit system and the excessive production of the great Southern staple. In this matter the great majority of the cotton growers are helpless: they are obliged to submit to the dictation of the advancing merchants as to what crops they shall grow. Occasionally, when the price of cotton has sunk so low that even the merchants are threatened with losses, as was the case in 1895, the merchants themselves press the farmers to raise other crops, such as corn and cow peas; but usually the merchants' preference for cotton causes them to refuse to accept other crops as security for advances.[1] As a correspondent to the Senate committee on agriculture and forestry of the Fifty-third Congress writes:

> Cotton-raising has grown to be a necessity more than a choice. As a general rule, supplies cannot be obtained from the merchants

[1] "In some sections, even of the black prairies of Texas, tenants have been notified by merchants that they could not advance to them in 1895, if they paid a money rent exceeding three dollars an acre." — Harry Hammond, "The Culture of Cotton" in "The Cotton Plant," *loc. cit.*, 267.

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on any other crop than cotton; consequently, they [the planters] are forced to raise it to get credit.[1]

The preference of the merchants for cotton is in harmony with the desires of many of the planters themselves. This is partly due to the speculative interest which cotton production awakens, but it is partly due also to the liking of the negro "cropper" for this crop and his apparent inability to raise any other.

It is, indeed, a commonplace at the South that the negro can only grow cotton — that he cannot grow corn. Corn will not bear neglect; to fail to plough at the proper time means loss of the crop. Though cotton must be worked much more, it bears the delays incident to negro methods much better.[2]

In spite of falling prices, therefore, the acreage and production of cotton have pretty steadily increased during recent years. Even the smaller yields of some years are to be explained rather by poor crop seasons than by any considerable reduction in the acreage. Before the war ten cents a pound was thought to be the minimum price at which it was profitable to raise cotton; and even now ten cents is looked for in the South with much of that eager expectancy with which the Northern farmer awaits dollar wheat, although it is probable that eight-cent cotton is to-day as profitable as ten-cent cotton was in 1860. But ten cents has not been known in the South as an average price for the year since 1890, when a crop of 7,300,000 bales was raised. After that date the acreage and production increased so rapidly and prices fell so quickly that in 1895 "middling upland" sold in the South for less than five cents per pound. The commercial crop for that year was nearly 10,000,000 bales, although its total selling value was $84,000,000 less than that of the crop of 1889–90. A reaction, supplemented by a poor season, reduced the crop in 1896 to 7,150,000 bales, and a corresponding advance in prices took

[1] Report of the Committee on Agriculture and Forestry on Condition of Cotton Growers in the United States, *etc.*, Fifty-third Congress, third session, report 986, pt. i, p. 317.

[2] Van de Graaf, *Forum*, XXI, 330.

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place, the average New York prices being 8.16 cents per pound. Another increase in the acreage has brought forth another large crop, which from present indications will be not far from 8,500,000 bales. This has caused another decline in prices, until cotton can now hardly be profitable to the great majority of its cultivators.

IV.

The "crop-lien system" has not been the only influence operative in producing the agricultural depression in the cotton states, although it is chiefly responsible for the backward condition of Southern agriculture. Like the farmers in the Northwestern states, the cotton growers of the South Atlantic and South Central states have felt the effects of Western competition, but they have made less effort than have the farmers to adjust themselves to the new conditions.[1] Before the war, comparatively little cotton had been grown in the great state of Texas, and even as late as 1880 this state was below Georgia and Mississippi in the production of that staple. But in recent years Texas has made great strides in this direction, and for the year 1894 her crop was nearly one-third the total amount of cotton grown in the country. A comparison by years since 1890 shows, indeed, that there has been comparatively little increase in the production of cotton outside of Texas, the annual rate of increase being less than the annual increase in the world's consumption.

The superiority of Texas as a cotton-growing region is to be explained partly by her new and fertile lands, which, without fertilizers and with relatively little labor, will produce more cotton to the acre than land east of the Mississippi on which large quantities of guano and intensive methods of cultivation are applied. The cotton planters of Texas, furthermore, have not become the victims of "the crop-lien system" to so great an extent as have their competitors in other states; and it is

[1] L. G. Powers, Fifth Biennial Report of the Bureau of Labor of Minnesota, 1895–96, 399.

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therefore worthy of notice that, in spite of cheaper production in Texas, nearly the whole reduction in the acreage and yield of cotton in recent years, as a result of the low prices, has been effected in this state. Cotton can be produced in Texas at a cost from one and a half to two cents less per pound than in the Eastern states;[1] and this fact is likely to give Texas an advantage over other cotton states for many years to come.

Texas has another advantage in her more reliable and efficient labor. The negroes have always been in a minority in that state; and since the war their proportion to the whites has been steadily decreasing, until now cotton is raised there chiefly by white laborers. The climate and resources of the state and the absence of negroes have made Texas an exception to the general rule in the South, and have enabled her to attract large numbers of immigrants from the North and even from Europe. Her more progressive and intelligent laborers have enabled the cotton growers to take advantage of all the improvements in implements and modes of cultivation:

The inefficiency and unreliability of the laborers have been great drags on the prosperity of the Southern states, especially of those sections where negroes are most largely employed. The Southern negro is usually a docile worker, but he lacks energy and ambition. His standard of living is low, perhaps not higher than it was in slavery days, and with this bare subsistence he seems hopelessly content. All Southerners are agreed that his efficiency as a worker is far below what it was before the days of freedom; and it is a matter of common remark in the South that the best workers among the blacks are not the younger hands, but the ex-slaves — men and women perhaps fifty or sixty years of age, who were trained to work in their days of bondage. On the big plantations along the Mississippi, where the managers exercise an authority little short of compulsion, and the plantation economy and management are not unlike those of slavery days, the negroes are fairly successful workers. There are also to be found in every community throughout the cotton belt negro farmers who are independent, industrious,

[1] Report of Senate Committee on Agriculture and Forestry, *loc. cit.*, I, 351–371.

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thrifty and progressive agriculturists. But they are only the notable exceptions to the general rule of negro shiftlessness and idleness. Poorer farming can scarcely be found than exists in those parts of the cotton belt where the absentee proprietor has rented out his land to the negro "croppers" and has left them free to manage the plantations in their own way.

V.

At the outset of this discussion, mention was made of the fact that international competition plays a much less important rôle in the determination of the price of cotton than it does in the price of wheat or of many other agricultural commodities. International competition is not, however, wholly insignificant; and it is perhaps of more importance in the dangers which it threatens for the future than in the difficulties which it causes at present.

Although cotton can be and has been grown in almost every tropical and semi-tropical region of the earth, there are few countries where its culture has become widespread or has met with much success. The small quantities of cotton used in England before the introduction of the factory system came from the countries of the Eastern Mediterranean or from the West Indies. Even the domestic manufacturers of the American colonies made use of West Indian cotton for the spinning and weaving of the rough garments worn by all but the wealthier classes. With the growth of machine production, the English manufacturers, finding that the supply of cotton from the old sources would not suffice to meet the new demands, besought the East India Company to import cotton from India, where it had been grown for centuries. But the Indian cotton was much inferior in staple to that which at the close of the eighteenth century began arriving at Liverpool from the United States; and, although the Surat cotton continued to be sent to the European markets in small quantities, it never succeeded in competition with that from America. Egypt began shipping a high grade of cotton to England about the middle

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of this century, and small quantities also came from Brazil. But before 1860 neither of these countries was regarded as a serious competitor of the United States.

During the Civil War, however, when the blockade of the Southern ports had cut off the Southern states from communication with the outside world, the absence of American cotton in Europe acted as a great stimulus to other cotton-producing countries to increase their production and export of this staple. It was feared that the opportunity thus offered to other countries to establish cotton culture on a firm basis might prove disastrous to the industry in the South; but these fears proved groundless at the time, and a decade after the close of the war the position of American cotton on the European markets seemed as secure as ever. The importations of Indian cotton into England reached their highest point in 1866, when 1,866,000 bales were received; Egypt reached her high-water mark in 1865 with 413,000 bales; Brazil's largest exportation was 700,000 bales in 1872; and the West Indies gave up the struggle after increasing their shipments to 166,400 bales in the same year.

But while the shipments of cotton from other countries to Great Britain in recent years has not, in fact, been sufficient to cause any alarm to Southern cotton growers, the competition of these countries has taken a new turn which may in time make itself felt by the American producers. India has for nearly a century been an important market for English cotton goods; and as the Indian cotton has been used to but a slight extent in the British mills, the Indian trade has furnished an important outlet for American cotton. But in quite recent years India has begun to manufacture her own cotton. In 1869 she had but 400,000 spindles and consumed in her mills but 80,000 bales of cotton. By 1895 the number of spindles had increased to nearly 4,000,000 and the mill consumption amounted to 1,375,000 bales. So extensive has this Indian manufacture become that it not only supplies a large part of the home consumption, but it has enabled Indian merchants to make large shipments of cotton goods to China and Japan. It

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has to this extent reduced the manufacture of American cotton into goods intended for those markets. The development of cotton manufacturing in other countries has likewise lessened somewhat, relatively speaking, the demand for American cotton. Great Britain, although still the chief cotton manufacturing country of the world, no longer stands so far ahead of all other lands as she did before the Civil War. More cotton is now consumed on the Continent than in the mills of Great Britain; and much of this cotton comes from other countries than the United States. France and Germany use a great deal of Egyptian cotton. Austria uses a considerable amount from India; and nearly one-third of this staple consumed by the rapidly expanding Russian manufacture comes from Asiatic countries, especially Trans-Caucasia.

The use of other than American cottons in these countries is due, not to any inferiority in the American staple, but largely to the better care with which the other cottons are prepared for the market. Even the despised Surat of war days, which, besides its short staple, was poorly cleaned and poorly baled, now comes to the European market in much better condition than does the American cotton. The same is true of the Egyptian product. On the other hand, the American cotton is sent to the mills in much worse condition than it was before the war. For this the decrease in the size of the plantations is partly responsible. Before the war each plantation had its own gin-house, and the cleaning and the packing of the cotton were more carefully attended to. "The different pickings were ginned separately, each picking on the large plantations being sufficient to make a run for the gins, and the different grades of cotton were thus kept distinct." [1] But with the advent, since the war, of cheaply constructed toll-gins and gin-houses, and with more rapid ginning, cotton is put up in dirty packages, with the fibers often cut or broken, and full of knots and fragments of seeds.[2] In the methods of

[1] H. Hammond, "The Handling and Uses of Cotton" in "The Cotton Plant," *loc. cit.*, 354.

[2] "In the gin itself no radical change or improvement has taken place since the days of Whitney, its inventor."— *Ibid.*, 358.

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baling cotton, too, there has been no advance, but rather a retrogression. Improvements that have readily been adopted in foreign countries have usually been neglected here.

> Taken altogether, it is generally admitted that the American bale is the clumsiest, dirtiest, most expensive, and most wasteful package in which cotton, or in fact any commodity of like value, is anywhere put up. It has no friends either among manufacturers, buyers, shippers, insurers or producers. Custom seems alone responsible for this incubus on the industry.[1]

A new method of baling and compressing cotton, known as the Bessonette system, by which the cotton is put up into cylindrical bales, has within recent years come into use in some sections of the Southwest. The cotton thus baled is more compact and better protected, and there is a saving on compressing, handling, insurance and transportation estimated at $4.25 per bale.[2] It is earnestly to be desired that planters and shippers should turn their attention to this question of preparing cotton for the market, not only for the direct benefits that would accrue to them, but also in order that America may be placed at no disadvantage in her competition with other cotton-producing lands on the European markets. A little insistence by our own manufacturers on having better prepared cotton would no doubt be influential in hastening a change that would be beneficial to manufacturers and planters alike.

In the recent discussion of the monetary question in this country attempts have been made to show that the Southern farmer has suffered seriously from competition with silver standard countries that produce cotton for the European markets, and some plausible arguments have been brought forward in defense of this thesis. The two chief competitors of the cotton states on the European markets are Egypt and British India. Each of these countries is on a silver basis, and in each prices have adjusted themselves to the silver standard. Now it is a well-known fact that prices of food and labor do

[1] H. Hammond, *loc. cit.*, 362. [2] *Ibid.*, 364.

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not adjust themselves so readily to fluctuations in the value of the standard metal as do commodities which enter to a large extent into international trade. It is even questioned whether in the interior of British India there has been any rise in the price of labor and articles of food.[1] Certainly the rise has not corresponded to the fall in the price of silver. The Indian grower of cotton who can, therefore, purchase the same, or nearly the same, amount of labor and provisions with a given amount of silver as in 1873, and who can obtain for his product a proportionally larger amount of silver than he could at that date, has an undoubted advantage over his competitor from the Southern states. He

> can better bear the unusually low price of cotton than can the American producer, who must pay wages, living expenses and other costs in gold or in some form of credit money equivalent to gold. Since the Indian product must be subjected to the severe competition of the world market, the seller by no means as a general 'rule' obtains an unusually high rate of profit, or premium on effort; but he is enabled by the favorable rate of exchange to procure sales through a lowering of his price, and still make the normal rate of profit, while his competitor reckoning on a gold basis can under the same scale of prices perhaps no longer cover cost of production.[2]

It is questionable, however, whether this advantage which silver-standard, cotton-producing countries are supposed to possess over the Southern states is anything more than a theoretical one. The shipments of Indian cotton to Europe show little or no increase since 1873; and since 1890 there has been an actual decline in the exportations. Egypt has increased her shipments; but in her case the increase is due to the peculiar character of the Egyptian cotton which has made it in great demand for the manufacture of "thread, fine yarns, fine underwear and hosiery (such as Balbriggan, *etc.*), and for goods requiring smooth finish and high lustre,"[3] for which American upland cotton is unsuited, rather than to any advan-

[1] Andrews, An Honest Dollar (1896), pp. 80, 81.

[2] Lexis, "The Present Monetary Situation," *Economic Studies*, I, 227.

[3] Shepperson, Cotton Facts (1895), p. 95.

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tage, real or supposed, which Egypt may derive from her present double standard.

It may be claimed with fairness, however, that India by consuming her own cotton has in the manner already described come into direct competition with the British cotton industry, and has thus competed indirectly with the American cotton growers. Yet we do not find that India has in recent years, corresponding to the years of decline in the prices of silver and of cotton, made strenuous efforts to increase her production of this staple. According to the estimates of the eminent cotton statistician, Mr. Thomas Ellison, the total production of India, in thousands of bales of 400 pounds each, has since 1890 been as follows:

1890–91	2959	1893–94	2837
1891–92	2509	1894–95	2621
1892–93	2575	Normal	2777.[1]

At most, therefore, the only argument that can be made is that, if the United States were on a silver basis, she would soon drive her competitors in cotton growing entirely out of the European markets — an argument which, considering the force of custom operative in these competing countries and the peculiar character of the cotton which they export, must be regarded as extremely fanciful.

VI.

Legislation can do little towards providing a remedy for the agricultural depression in the South; for the causes of this depression are to be found in the unwise economy and bad husbandry prevailing on the cotton plantations, rather than in the demonetization of silver, the existence of a protective tariff or dealings in "futures." It doubtless savors of the commonplace to repeat the often made assertion that a great many farmers are improvident and thriftless, but there is no portion of the country where the statement is more applicable to-day

[1] "The Cotton Trade of India," in Latham, Alexander & Co.'s Annual Report for 1895, p. 43.

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than it is in the South. This many of the Southern people are themselves willing to admit. It was an Alabama planter who wrote:

> I am unable to say that this depression or distress is produced by causes coming from the action or non-action of Congress or of our state legislatures. The trouble arises from bad management and want of proper economy at home.[1]

It is true that the Southern farmers are, in a large measure, blameless in this matter, for they have been made unwilling victims of much of this unthrifty management. The burdens thrown upon the South by the Civil War; the loss of much property and the decline in value of what remained; the necessity of maintaining agriculture on lands almost exhausted by years of reckless cultivation; the raising of cotton on such lands without adequate capital and with ignorant and careless laborers — these burdens have not yet ceased to weigh heavily on the South, and they suffer no danger of being overestimated. The two greatest hindrances to the advancement of Southern agriculture, "the cropping system" and "the crop-lien system," were imposed upon the South during reconstruction days; and escape from them has been difficult, if not impossible, to most of their victims.

How to free the cotton states from these obstacles to agricultural progress is a serious problem, for which no satisfactory solution has yet been offered. They are indissolubly bound together, and are further so complicated by their relation to the race problem and to the question of absentee proprietorship, that the difficulties which one meets in attempting to find a solution for the problem are well-nigh insurmountable. Wherever in the cotton states we find an increase in the number of small farms, we also find a decrease in the average size of these farms; a decrease in the number of farms occupied by their owners; an increase in the number of tenants farming on the share system; usually, though not always, an increase in the percentage of colored to white farmers; an

[1] Report of Senate Committee, *loc. cit.*, I, 312.

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increase in the amount of land given over to cotton; and, finally, an increase in the number of crop mortgages.[1]

As respects the share or "cropping system," it is now generally admitted that the abandonment of this method of land tenure and a return to the wage-system would be a change most beneficial to agriculture in the cotton states. The causes which led to the failure of the latter at the close of the war and necessitated the adoption of the former have nearly ceased to be operative; while the results of recent investigations show plainly that in those localities where the two systems are in operation side by side, better cultivation and more prudent management result when the farming is carried on by hired laborers than when it is left to "croppers." Even where the proprietor does not occupy his own plantation and himself conduct the farming, experience, as in the "Delta region,"[2] has shown that under efficient managers, farming under the wage-system can be made fairly successful, even with negro laborers.

More uncertainty is manifest when we come to seek means for removing the other great impediment to agricultural reform, "the crop-lien system," although we here come to the root of the whole evil. The late Henry W. Grady, one of the greatest men the South has produced since the war, saw clearly sixteen years ago that in "the crop-lien system" was to be found the source of nearly all the evils with which Southern agriculture was afflicted. Speaking of the tendency, which he then supposed to exist, for the plantations of the advancing merchants to swallow up the little farms of the mortgage-burdened debtors, he declared that, "the remedy for this deplorable situation is first of all the establishment of a proper system of credit."[3] Elsewhere[4] I have ventured to suggest that one means of relief from the present methods of obtaining credit in the cotton states might be found in the establishment of coöperative credit societies, such as exist in

[1] *Cf.* H. Hammond, "The Culture of Cotton," *loc. cit.*, 242, 243, 249.

[2] The alluvial lands lying along the Mississippi, Red and Yazoo Rivers.

[3] *Harper's Magazine*, LXIII, 719 ff.

[4] In a monograph soon to be published by the American Economic Association.

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nearly every country of Continental Europe. Possibly such a measure as that proposed in the last Congress, permitting the establishment in small places of national banks having a less capital than $50,000, might be found at least partially successful as a remedy. There are comparatively few banking institutions in the South, and there is no one but the merchant who is able and willing to assist the small borrower. Without some reform in the present system of agricultural credit in the cotton states, there is little hope that the small farmer will follow the well-meant advice of numerous writers and speakers who urge him to diversify his crops and raise his own supplies.

The small farmers working on a narrow margin are always in imminent need of cash, and cotton is the only crop that never fails of a ready cash sale. Every pound of it can be readily disposed of by the producer for cash, and at the prices quoted in the markets of the world. All other crops, unless grown upon a scale suitable for shipment in bulk — a scale seldom within the reach of the small farmer — are subject to the vicissitudes of the local market, easily overstocked, and often inflicting heavy loss on the producer of perishable commodities.[1]

In this connection it is to be noted that those sections of the South where agriculture has made most rapid progress, and where the farmers are most prosperous, are in the neighborhood of the cities where manufacturing and mining industries have recently shown rapid development. The expanding markets of such cities as Atlanta, Birmingham, Chattanooga and the cotton-manufacturing towns of the Carolinas and Georgia, have exercised a good influence in diversifying the crops and improving the methods of tillage in the surrounding country. Possibly another quarter of a century may show as great changes in the rural economy of the planting states as have taken place there in manufactures and commerce since the fetters fell from off the negro slave and labor obtained its proper reward and recognition.

M. B. HAMMOND.

SOUTH BEND, IND.

[1] H. Hammond, "The Culture of Cotton," *loc. cit.*, 268.

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INSURANCE AGAINST UNEMPLOYMENT.[1]

THE purpose of workingmen's insurance is to make provision for the assistance of workingmen when, through any incapacity, they are unable to earn their usual wages. A workingman may be unable to work as the result of any of four contingencies — accident, sickness, old age or invalidity, or inability to obtain employment; and a complete system of assistance must necessarily cover all four of these cases. It is now very generally admitted that insurance of some kind, mutual or state aided, voluntary or compulsory, offers the best means of providing for the first three contingencies — that is, for those involving physical disability. Within recent years, however, the desirability of extending the field of insurance to the fourth contingency, where inability to earn wages is the result of involuntary idleness, has been strongly urged. It is the purpose of this paper to consider to what extent a system of insurance can be profitably employed in this last case.

Fortunately, we need not study this problem from the purely theoretical standpoint. The fact that during the widespread industrial depression of recent years many workingmen have been forced to remain in involuntary idleness has led to attempts in various countries to make provision against unemployment through some system of insurance. Conspicuous among them are the out-of-work insurance institutions that have been created in several of the cantons of Switzerland, at Cologne and at Bologna. Of these the Swiss organizations are of much

[1] The literature of insurance against unemployment is already extensive. For the best account of the Swiss experiments with which this paper chiefly deals, the reader is referred to two *Circulaires* of the *Musée Social*, Nos. 2 and 5 of Series B; the report of the French *Office du Travail*, *Documents sur la question du chômage*, 1896; and the paper by Eugéne Rostand, "*De l'assurance contre le chômage involontaire*," contained in the report of the Third Session of the International Congress in Relation to Accidents to Labor and Social Insurance, Milan, 1894. The *Circulaires* of the *Musée Social* give the most complete bibliography of the question that has been prepared.

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the greatest importance, and for that reason most attention will be devoted to their operation. A consideration of the efforts there made will serve not only to illustrate the principles involved in the organization of this kind of an insurance system, but also to show the practical difficulties with which its administration is attended.

The first attempt under government auspices to provide for insurance against unemployment was made by the town of Berne. On January 13, 1893, the town council provided for the creation of a municipal institution for the insurance of workingmen against unemployment. Though under municipal authority, membership in the institution was left entirely voluntary. Practically the only condition of membership was the payment of monthly dues of forty centimes ($0.077). To the fund thus accumulated the town agreed to add a subsidy, the maximum amount of which was limited to five thousand francs ($965) a year. The constitution also provided for the receipt of gifts from employers and other individuals.

The value of the out-of-work benefits was fixed at one franc ($0.193) per day for an unmarried and a franc and a half for a married man. This relief was to be granted only during the months of December, January and February. To be entitled to receive it a member must have paid his dues regularly during at least the six months next preceding, and must have been unable to obtain work during at least fifteen days. Relief, when granted, however, began to run after the first week of unemployment. Various conditions were placed upon those receiving benefits, in order to protect the institution against imposition. Thus, members out of work had to present themselves twice a day in a room set aside for that purpose, where they might spend the day if they desired. A workingman who refused work of any kind lost all right to aid of any kind: a member thus had no right to refuse work because it was not in his trade. There were various other cases in which the workingman lost his right to a benefit: for instance, when lack of unemployment was the result of his own fault, and especially when he had engaged in a strike. The administration of the fund was

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entrusted to a commission of seven members, of whom three were to be named by the municipal authorities, two by the employers contributing to the fund and two by the workingmen.

This institution has now been in existence a sufficient length of time to furnish some indication of the character of the results. The number of members during the first year, 1893–94, was 404. Of these 166 were aided during the year, receiving $1319.16, or an average of $7.95 each. The highest sum paid to any one person was $20.27. The total expenditure of the year was $1508.30. The receipts for the year were: dues of members, $212.30; gifts from employers and others, $382.14; and municipal subsidy, $913.86. It will be seen that the members contributed but fourteen per cent of the total receipts, and that they received in actual benefits six times the amount paid in by them as dues. One would think that under such exceptionally favorable circumstances membership would increase rapidly. Such, however, has not been the case. During the second year, 1894–95, there were but 390 members, or 14 less than the preceding year. Aid was given to 219 persons, or more than half the members, to the extent of $1869.06, or an average of $8.53 each. But $263.79 out of total receipts of $2249.86 came from dues of members. The ratio of this sum to the amount paid out in benefits is fourteen per cent, the members thus receiving on an average seven times the amount contributed by them.

The institution was first established for but two years as an experiment. In 1895, the two years having elapsed, the town council determined by an almost unanimous vote to continue it in operation. Some modifications were, however, introduced in its organization. Dues were raised from forty to fifty centimes per month, and the maximum amount of the municipal subsidy was raised from $965 to $1351. Daily benefits were also increased to one and a half francs for single and two francs for married members. In addition, the administration of the municipal employment bureau, which had until then been an independent institution, was attached to that of the insurance fund.

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The result of these changes was to increase the operations of the system. On December 31, 1895, there were 605 members enrolled, of whom 169, or 49 more than during the preceding year up to the same date, had been aided. The total receipts during the year 1895–96 were $2,213.99, of which $312.70 were derived from dues. The total expenditures were $2,121.30, of which $1,932.22 were for benefits. In this third year, therefore, slightly over six times the amount received as dues from the members was paid in benefits.

Saint Gall, a town of about 30,000 inhabitants, was the first to follow the example of Berne in providing for the insurance of workingmen against unemployment. Its policy, however, differed radically from that of Berne, in that it adopted the principle of compulsory insurance. By the law of May 14, 1894, the canton of Saint Gall authorized any of its communes to create a compulsory unemployment insurance institution, and provided further that several communes might combine to organize a general insurance system. It was on the basis of this law that the town of Saint Gall, after an abortive attempt to unite with the neighboring communes of Tablatt and Straubenzell, founded its unemployment insurance fund by act of June 23, 1895.

The principal features of this institution can be summarized as follows: Membership was made obligatory upon all workingmen whose daily wages did not exceed five francs, excluding youths and apprentices earning less than two francs a day. Weekly dues were fixed at fifteen centimes for members earning three francs or under, twenty centimes for those earning from three to four francs and thirty centimes for those earning more than four. The amount of the benefit was likewise proportioned to the wages of the recipient, being 1.80, 2.10 and 2.40 francs per day respectively for the three classes. Benefits could not be paid to any person for more than sixty days in any one year. In order to be entitled to benefits a member must have paid dues uninterruptedly for at least six months, and had to show that for at least five days he had not been able to secure work suited to his occupation at the usual wages of the season. Any

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man who was without work as the result of his own fault, who had participated in a strike, or who refused without a good reason work assigned to him by the employment bureau which was operated in connection with the insurance fund, was debarred from any right to benefits. Workingmen incapacitated for labor through sickness or accident were not entitled to benefits, since they were otherwise insured against these two contingencies. In addition to dues, the revenue of the fund included a subsidy from the town, which, according to the law, could not exceed a maximum of two francs for each person insured, and a subsidy from the canton. No account was taken, apparently, of gifts and donations from employers or other persons. The fund was administered by a commission of nine members, two of whom were appointed by the municipal authorities and seven by the workingmen.

This institution commenced operations July 1, 1895. The law being obligatory, the first duty of the commissioners was to see that all persons to whom the law applied became members. As the result of the first notice 1535 persons joined; a new call a month later added 579 names; and, as the result of further efforts, the total number of persons enrolled during the first year was increased to 4220. This total was secured only after securing over 150 convictions of persons who had neglected to answer the summons to enroll. Of the total number secured, 2895 were members of the first class, or those earning not more than three francs; 1179 of the second class; and but 146 of the third.

During the year 430, or about ten per cent of the members, registered themselves as without work. Of these only 363 received benefits, since many had not made the required contributions for six months. To the beneficiaries was paid a total of $4536.30, or an average of $10.55. The highest amount received by one person was $24.32, and the lowest $1.74. The receipts and expenditures during the year were as follows:

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RECEIPTS.

Contributions of members	$4183.14
Municipal subsidy, cash	772.00
Municipal subsidy, payment of operating expenses	1084.44
Interest	21.81
	$6061.39

EXPENDITURES.

Benefits	$4536.30
Operating expenses	1084.44
	$5620.74
Balance on hand	$ 440.65

It will thus be seen that the year closed with a surplus in the bank, in spite of the fact that the city paid only a portion of the maximum sum that it could be required to pay. It should be remembered, however, that, as this was the first year, no benefits were paid during the first six months, since no member could before that time have made the required number of payments. Accordingly, the officials estimated that future charges would be much heavier, and that it would be necessary either to increase contributions or to reduce the benefits.

This institution, like that at Berne, was created for a provisional period of two years. Before the end of the second year, however, the city council on November 8, 1896, by a decisive vote ordered the suspension of the fund after June 30, 1897. The first experiment in compulsory insurance against unemployment was thus declared a failure. It is worthy of note, also, that this suppression was accomplished on the motion and through the votes of representatives of the working classes in the council.

A detailed account of the organization and operations of the institution at Saint Gall has been given, even though its suppression has been definitely decided upon, since in matters such as this information can be gained from failures as well as from successes. It is worth while, therefore, to examine some of the objections that were raised against this scheme. The

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first was that which inevitably arose from the members who were forced to make contributions without receiving any benefits in return. This is a fundamental objection. The liability to lack of employment varies greatly in the different trades; so that to require all workingmen earning less than a certain sum to become contributors to an insurance fund, as was done at Saint Gall, results in positive injustice. Employees having steady employment, such as factory operatives, are made to contribute to the insurance of workingmen, such as those in the building trades, who are certain to be unemployed more or less during the year. The experiments at Berne and at Saint Gall have shown that it is the workingmen in the building trades who suffer most from lack of employment. Thus, in the former city, though membership is open to men of all occupations and the benefits are six or seven times the dues, only day laborers, for the most part in the building trades, and other employees in the same trades have availed themselves of the fund. Out of the 226 persons registered the second year as out of work, there were 163 day laborers, 18 plasterers or painters, 13 roofers, 10 masons, 9 carpenters, 4 stonecutters, 3 cabinet-makers, 2 locksmiths, 1 woodsawyer, 1 cement worker and 1 fireman. It will be observed that factory employees proper were absolutely unrepresented. Turning now to the experience of Saint Gall under compulsory insurance, it is found that, though both factory and building-trades employees were required to be insured, practically all the persons aided belonged to the latter class. Of the 430 persons registered as out of work during the first year, there were 205 day laborers, excavators, *etc.*, 47 masons, 18 porters, 17 housepainters, 14 public messengers, 13 dressmakers, 12 plasterers, 11 carpenters and 10 roofers; while no other occupation was represented by as many as ten persons.

A second objection was the great difficulty experienced in enforcing membership. The administrators of the fund found it almost impossible to compel persons to become members or afterwards to pay their dues, even though they resorted to prosecution in a great many cases. In the December following the commencement of operations they found it necessary

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to send notices to 1110 persons who were behind in the payment of their dues. On April 1 over 4000 francs were owing by about 1300 persons.

Finally, it was complained that the indemnities were much too high. It was found that the efforts of those out of work to gain employment were sensibly relaxed. Many seemed to use every effort to obtain as much relief as possible, seeking work earnestly only after they had been aided the maximum number of sixty days. In a word, self help seemed to have been lessened in just the proportion that assistance was granted.

In spite of the check that the movement for the insurance of workingmen has received in Switzerland through the suppression of the institution at Saint Gall, efforts in this direction have not been abandoned. Though it is generally admitted that both the Saint Gall and the Berne systems had defects, it is claimed that they were such as lack of experience rendered inevitable, and that they can be eliminated by a more scientific organization. At Basel a plan is now under consideration that is of especial interest, since it involves an attempt to meet the objections which have been urged against the two older schemes. The proposed system is beyond doubt in every way a more detailed and a more carefully worked out plan of insurance than any that has yet been put into operation.

In 1894 the council of state of Basel submitted to the general council a proposition for the municipal insurance of workingmen against unemployment. This measure, after discussion, was first referred to a committee of experts, the leading spirit of which was M. Adler, professor of political economy at the University of Basel. The commission reported in April, 1896, a modified plan. After a full discussion, this report was referred to a committee of the general council, which, after further consideration, reported a specific bill, differing in but slight details from the proposition of the committee of experts. In its final form the plan provides for the compulsory insurance, through a municipal fund, of all masons and excavators and all workingmen subject to the federal factory law who do not earn

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more than 2000 francs a year, excluding, however, young people and apprentices earning less than 300 francs a year. In adopting the principle of compulsion, however, the important option is given to the workingmen of insuring themselves through voluntary organizations, instead of through the municipal system. This permission was granted in order to meet the objection that was urged against the bill as first framed by the committee of experts, that certain classes of workingmen had already voluntarily insured themselves through their labor organizations, and that it would be unjust to compel them to become members of the city organization. This was notably true of the members of the "Typographia," an organization of the printers of the city.

The receipts of the fund consist of (1) dues from members, (2) contributions from employers, (3) a subsidy from the city, and (4) gifts and legacies. For the payment of dues and the determination of the amount of benefits to be given, members are first divided into three categories: factory employees, workingmen in the building trades who are the least subject to unemployment, and other workingmen in the building trades. The object of this division is to take account of the differences in the degree of probability of unemployment. Within each of these categories there is a further division of members into three classes, according as their weekly earnings are fifteen francs or under, from fifteen to twenty-four francs, or twenty-four francs or over. The weekly contributions demanded of these classes are ten, fifteen and twenty centimes, respectively, for members of the first category; twenty, thirty and fifty centimes for members of the second; and thirty, forty-five and sixty centimes for members of the third. The contribution of employers is fixed at ten centimes per week per workingman insured in the first category and twenty centimes for workingmen of the second and third categories. The city assumes all the expenses of management and agrees to grant an annual subsidy of 25,000 francs.

The benefits granted to members out of work vary from eighty centimes to two francs a day. They are graduated in

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an ingenious manner according to the class to which the recipients belong and according to their needs. Thus, the unmarried man, the married woman, and the widower or widow without children under fourteen years of age receive from 0.80 to 1 franc a day; the widow or widower with children under fourteen years of age, and the married man if he has not more than one child under fourteen years of age, receive from 1.20 to 1.50 francs per day; and, finally, the married man with several children under fourteen years of age receives from 1.50 to 2 francs. The benefits of the married man are reduced twenty or thirty-three per cent if his wife is also employed, or if she receives a benefit from the insurance fund. The maximum length of time during which benefits can be paid is ninety days. An important provision is that there may be paid, in place of the above indemnities, traveling expenses for so great a distance as two hundred kilometers, and an indemnity of one franc to a single or two francs to a married man who desires to leave the city to obtain work elsewhere. This is to prevent a workingman who has an opportunity of finding work elsewhere from remaining a charge upon the fund. No benefits are payable when the lack of employment is the result of a dispute of employees with their employer concerning the amount of their wages; when the member voluntarily quits his employment; when he has been dismissed for breaking the factory or other regulations; when the lack of employment is the result of sickness or accident against which the workingman is elsewhere insured; or when, without a valid excuse, the person insured refuses work offered to him.

The question of insurance against unemployment has also received attention in other Swiss cities, notably Zurich and Lausanne. As yet, however, the discussions have not resulted in any distinct propositions; and it will, therefore, be unnecessary to consider them. The institutions that have been actually created at Cologne and Bologna offer few points of interest. That of Cologne was created in 1896, and is under municipal management. Insurance under it is purely voluntary. Any workingman over eighteen years of age and a resident of the

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city during two years can become a member by paying a weekly contribution of twenty-five pfennigs. He thus acquires a "right to work" in case he is unemployed during the period from December 15 to March 15. If work cannot be found for him, he is entitled during the first twenty days of unemployment to a benefit of two marks if he is married, or one and a half marks if single. A large guarantee fund has been created through gifts and the contributions of honorary members. In addition, the city itself has granted a subsidy of several thousand dollars as an encouragement to workingmen to become members. At Bologna a voluntary unemployment insurance institution has been created which affects only employees in building trades. Members must pay an annual contribution of 3.30 francs if they are under twenty years of age, or five francs if over that age. The out-of-work benefits are sixty centimes a day for members of the first and one franc for members of the second class, during a maximum of forty days, commencing with the sixth day of unemployment.

The experiments that have been made in Switzerland and elsewhere, while they are not sufficiently extensive to furnish conclusive evidence regarding the practicability of insurance against unemployment, are fully adequate to bring out the chief considerations that must be taken into account in any attempt to organize such a system.

An examination of the nature of the problem of unemployment shows that insurance principles are ill suited for its solution. Insurance presupposes that the risk involved shall possess two characteristics: it must be well defined and it must be the consequence of a chance that can be estimated with some degree of certainty. The risk of unemployment conforms to neither of these conditions. It is not well defined, since there is no fixed criterion as to what work the unemployed should be required to accept. It does not depend upon calculable chance, because the personal element involved in seeking and retaining work, to say nothing of the uncertainty of the employers' action, enters so largely. Though lack of employ-

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ment is often unavoidable on the part of the workingman, the latter's will and energy play such an important part in the matter that any attempt to distinguish unavoidable idleness is futile. Insurance concerns itself with a risk that can be calculated and provided for in advance; but this cannot be done in regard to lack of employment. The study of the various systems that has just been made shows that, in spite of the fact that the term insurance has been employed, the attempt has not really been made to create insurance systems. In no case has the attempt been made to calculate risks and to adjust contributions accordingly, or indeed to make the system self-supporting. Only nominal contributions have been required from members, while the great burden of expense has been borne by the government and by voluntary contributors. In reality, therefore, it is scarcely proper to speak of these institutions as insurance organizations. What has been created is really a more methodical system of granting relief to the unemployed.

Turning now to the actual organization of the Swiss systems, it will be seen that the radical mistake was the failure to recognize the essentially different conditions obtaining in different industries. The problem of lack of employment in the factory trades, for example, is quite different from that in the building trades or among ordinary day laborers. It may be confidently stated that any attempt to introduce even a modified form of insurance against unemployment should follow strictly trade lines. In this respect the Basel proposition shows a marked advance over the other systems.

This, however, brings us to the consideration of the out-of-work benefit features of labor organizations. If unemployment insurance should follow trade lines, every argument would seem to indicate that such efforts should be made through existing organizations of workingmen. The great work done by these organizations in the way of aiding their members is well known. For example, the chief labor correspondent of the British Board of Trade stated, in his report on trade unions for 1895, that one hundred of the principal unions expended during the

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year $2,121,775 in relief of the unemployed. In the United States a large part of the expenditures of the trade unions likewise go for this purpose, though it is not possible to make any exact statement of the amount. This method of granting relief possesses manifest advantages over the use of a municipal organization. The work of unions is not charity, but the highest order of mutual aid. Labor unions, moreover, are in a peculiarly favorable position to assist their members in obtaining work, and are able to guard themselves against imposition. Finally, as we have seen, unemployment is not a condition beyond the control of individuals, and does not happen with a regularity that can be calculated. Insurance proper affords little room for discretion in granting relief; while each case of unemployment should be considered upon its particular merits. Labor organizations can exercise this necessary discretion in a way that is utterly beyond the power of a municipal institution.

The logical conclusion is that in America, at least, provision against lack of employment can best be made for the established trades by the men themselves through their organizations; and that this provision cannot be made according to hard and fast insurance principles, but must allow for a certain elasticity or discretion in the granting of relief, according to the circumstances of each case and the amount of funds available for this purpose.

Though the Swiss systems must be regarded as faulty, in lacking the character of true insurance, it is not desired to give the impression that such municipal institutions cannot be made to serve a useful purpose. On the contrary, there are involved in their organization principles which, when properly applied, can be of great assistance in solving the problem of unemployment. They may not provide scientific insurance, but they constitute a vast improvement over the old methods of indiscriminate and uncertain relief. They require employees to register and to make some personal sacrifice in order to be entitled to relief; they insure that relief shall be granted only to *bona fide* residents of the city; and they bring the unemployed under the supervision of the public authorities. This

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last feature greatly facilitates finding work for idle men, either through a public employment bureau or in the immediate service of the government. To accomplish their work in the best way, however, the municipal institutions should cease to lay emphasis upon the idea of insurance. The principle of registration, accompanied by the requirement of small monthly contributions, is the really valuable feature of their work. They should seek chiefly to reach those classes which do not possess labor organizations. Finally, they should make assistance to the unemployed in finding work the most important part of their duties. Only after they have failed in this effort should they grant pecuniary relief.

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THE SOCIOLOGICAL THEORIES OF GABRIEL TARDE.

GABRIEL TARDE, the French sociologist, is rapidly gaining in popularity, both in his own country and abroad. An attempt to consider the value of his contribution to the advancement of social science may, therefore, be found worthy of interest. Such an attempt has not yet been made, Tarde's theories on "imitation" having until now been discussed only in a fragmentary way, and in connection with the particular points of view of competing conceptions.

The man who is now regarded as the most prominent leader of the French sociological school, and to whom his countrymen, after many years of somewhat envious distrust, are at last doing justice, is a self-made scholar, grown up in solitude and self-communion, far removed from any contact with the powerful university and academic conventicles of the French metropolis. The greater part of his life has been spent in an obscure corner of France, at Sarlat (Dordogne). There he was born in 1843, and there he remained, after having completed his studies, for nearly eighteen years, on account of his professional duties of *juge d'instruction*. He began to contribute to Ribot's *Revue philosophique* in 1880–81. At that time the infatuation of sociologists for the Spencerian conceptions, however misapprehended, was at its height. The metaphor of the "social organism" was the motto of the day. After his *début*, the unknown magistrate from Sarlat took a firm stand against the dominant doctrine, according to which sociology was called upon to ascertain the substantial identity of social and biological facts. He claimed, on the contrary, that the rising science ought to aim at determining the differential element of social phenomena. On this solid basis Tarde gradually built up his theory of social life in a series of suggestive papers, and finally gave it out in the *Lois de l'imitation*, published in 1890.

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Through this fascinating book Tarde has won fame even beyond the field of specialists, the originality of his views being such as to strike the fancy of sociological *dilettanti*. But the importance of his work goes farther and deeper. If we carefully look through the whole series of his writings, so as to grasp the ultimate meaning and to appreciate the remotest consequences of his speculations, we may be able fully to recognize the fact that Tarde has succeeded in bringing together the elements for one of the most fruitful conceptions of social life that has ever appeared in the history of philosophy.

I.

According to Tarde, social intercourse in its essential nature — that is, divested of every complication of mechanical and biological elements, as, for instance, an epidemic contagion or the suffocation of a man in a too compact crowd — is elementally "the influence of one brain upon another brain." [1] Such an influence presupposes: (1) a model and a copy, that is to say, an idea which tends to reproduce itself by suggestion; and (2) an act of imitation by which the reproduction is accomplished. We have thus, on the one hand, the element owing to which social facts differ, namely, invention — the manifestation of creative genius in all its degrees, from which proceeds every improvement, however insignificant, in any kind of social phenomena, linguistic, religious, juridical, æsthetic; and we have, on the other hand, the element through which social facts repeat themselves, namely, imitation, in all its forms, forced and spontaneous, elective and unconscious.[2] In so far as imitation determines the repetitions and similitudes that exist in social life, it plays a part which is analogous to that of heredity in the living world and to that of undulation in the physical world.[3] We must not confound the repetitions and similitudes which have their origin in imitation with those others which

[1] Études pénales et sociales (Lyons, 1892), p. 357 : essay on "Les maladies de l'imitation."

[2] Lois de l'imitation (Paris, 2d ed., 1895), pp. 2, 3.

[3] *Ibid.*, pp. 15, 16.

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might be found among nations risen by separate ways to a certain degree of civilization. The latter are the result either of biological causes, such as the fundamental identity of human nature and of its organic wants, or of physical causes, such as the uniformity of the external *milieu*, by which like wants find like means of satisfaction.[1] All that in the phenomena of human aggregations is social and not vital bears the stamp of imitation, which, as M. Tarde says,

> Est la pierre de touche la plus nette pour distinguer ce qui est social de ce qui est vital. Tout ce que l'homme fait sans l'avoir appris par l'exemple d'autrui, comme marcher, crier, manger, aimer même, dans le sens le plus grossier du terme, est purement vital; tandis que marcher d'une certaine façon, au pas gymnastique, valser, chanter un air, préférer à table certains plats de son pays et s'y tenir convenablement, courtiser suivant le goût du jour une femme à la mode, tout cela est social.[2]

But what now is the law that determines the unequal and variable diffusion of inventions? Or, what amounts to the same: What is the law of imitation?

Tarde makes a distinction between logical and extra-logical laws of imitation. The logical laws are to be discovered whenever an invention is imitated solely because it is found to be truer or more useful than any of its competitors. There are inventions and discoveries that are destined by their reciprocal incompatibility to replace each other, and there are others that not only can coexist, but can be combined and accumulated. Hence we have in every order of social phenomena, from language to art, a double series of logical conflicts and logical copulations representing the two directions, critical and synthetical, through which is attained social progress, or, in Tarde's conception, "the ascent of human societies to the most intense energy of faith, and to the most nearly perfect equilibrium of appetites."[3]

The conflict arises at the appearance of a new invention, whenever this satisfies the same wants or has the same object

[1] Lois, pp. 40–46.
[2] Logique sociale (Paris, 1895), preface, pp. vi, vii.
[3] Lois, p. 160.

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as preceding inventions: in languages, between the accepted expression and the neologism; in religion, between the official dogma and the heretic creed; in science, between the ruling theory and the hypothesis of the new inquirers. The conflict terminates when one of the two contending elements has been eliminated. Union, or as Tarde puts it, "*l'accouplement logique*," is accomplished when the inventions in contact are, by their nature, capable of being combined and of reinforcing one another. We must discriminate between the inventions that can stand an indefinite superposition of others of the same nature and those which, beyond a certain limit of accumulation, have to yield to substitution should progress continue. The material of a language can be augmented without limit by the addition of new words responding to new ideas; but the grammar cannot be modified on its fundamental lines, beyond a certain limit, without profoundly impairing the organism of the language itself. Thus it is with the religious creeds: in them the narrative and legendary element, capable of infinite augmentation and development, is faced by the dogmatic and ritual element, which by its very nature is relatively unchangeable. Thus also science admits of unlimited accumulation, so far as the enumeration and classification of natural facts is concerned; whereas scientific theory is the most unyielding of human products, and the interpretation of facts *per causas* is perfected only by the substitution of new theories for old.[1]

But the logical causes, as described above, very seldom operate apart from some other factor in the choice of examples to be imitated. Tarde formulates the following laws:

Examples of equal logical and teleological value being given:

1. *Internal are imitated before external models*, which means that the imitation of ideas precedes the imitation of their external manifestation, and that ends are imitated before means. A proof of this may be found in the fact that envy, *i.e.*, the desire of external imitation, never precedes obedience in the intercourse of the different social classes, but is always the sign and the consequence of an anterior obedience. In

[1] Lois, pp. 154–204.

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being gradually attenuated, social inequalities become more unbearable to inferiors, cease to produce obedience — a form of internal imitation — and give birth to envy, which ends by completely eliminating the inequalities themselves. This law, according to which imitation proceeds *ab interioribus ad exteriora*, reproducing first the most intimate and hidden elements of the living model — aims and ideas — and then its exterior aspects, may explain why legislative reforms follow at a distance, without ever preceding, the intellectual and economic changes to which they correspond. The same law gives us the reason for the *survivances coutumières* in every kind of social facts, — linguistic, juridical, ritual, æsthetic, — showing us in these survivals the external imitation, that is, the imitation of expressions or means, outliving the disappearance of the internal model, namely, ends and ideas.[1]

2. *The examples of persons and classes judged superior are imitated in preference to those of persons and classes reputed inferior.* Whatever may be the organization of a society, aristocratic, theocratic or democratic, imitation propagates from above to below, because the imitative intercourse is that of model to copy. This means that imitation is commonly unilateral. The idea of social preëminence is intimately connected with the fact of power and wealth. At all times and in every society the class which enjoys power and wealth is that from which examples descend to the lower classes. Of course invention may spring from the lower ranks of a society, but in order to spread out and to become an efficacious factor of progress, it must be received by the leading classes, "*cime sociale en haut-relief, sorte de château d'eau social d'où la cascade continue de l'imitation doit descendre.*" In connection with changes in social condition and with the diffusion of power and wealth from one class to another, the series of social preëminences develops itself in the line of historical evolution; and the center of imitative impulse gradually passes from the ancient theocracies to the aristocracy of blood, and later to the plutocracy, against which arises, to triumph in the future, the aristocracy

[1] Lois, pp. 211–232.

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of the intellect. This law may explain the fascination that towns in general exercise over country-folk, and that the capital of a country has over other cities.[1]

3. *An assumption of superiority makes conspicuous either ancestral models or those furnished by contemporaries.* This law is of the greatest importance to Tarde. Imitation develops itself in history in two directions: that of habit (*imitation-coutume*) and that of fashion (*imitation-mode*). These alternate during the life of human aggregations, without, however, permitting the spontaneous element of fashion to overthrow entirely the traditional element of habit, which is almost the warp into which the variations suggested by contemporary models weave themselves. The entire history of civilization may be divided into epochs of tenacious tradition, in which the imitation of ancestral models dominates, and epochs of invading fashion, in which the secular series of ideas and rules increases through the experience and the inventions of contemporaries. To each period of fashion succeeds one in which the recent acquisitions unite and become a definitive social patrimony through the formation of habits.[2] The alternation of these two modes of imitation cannot be clearly perceived by looking at human history in its entirety, because very seldom do the crises of foreign imitation occur simultaneously in the different fields of social activity. They appear now in the domain of language, now in that of politics, and again in that of literature and art. One cannot seize in detail the individual action of these two factors without studying separately each one of the various groups of facts in which the life of human societies is realized. Tarde proceeds to such a study in what concerns religion, politics, law, economy, ethics and art. This part[3] of the *Lois de l'imitation* — a review of which cannot here even be attempted — is doubtless the most brilliant and the most suggestive portion of a work which is justly described as "fascinating" by so competent a critic as Professor Giddings.

[1] Lois, pp. 232–264. [2] *Ibid.*, pp. 265–276. [3] *Ibid.*, pp. 277–394.

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II.

In *La logique sociale* Tarde endeavors to state the laws of invention. He says that it is impossible to understand how and why an invention is produced without taking into consideration, on the one hand, the mental activity of genius, and, on the other, the external causes. The latter consist principally of the various influences, linguistic, religious, economic, political and æsthetic, all of which operate in conformity to the logical and extra-logical laws of imitation, and lodge the elements of a future invention in the brain of a genius. The internal causes are to be sought, according to Tarde, in the mental activity of a genius.

> Genius [says he], a very peculiar vital invention, is, at the same time, the highest blossom of life and the highest source of society. Without attempting to violate the secret of its solitary meditation, of that mysterious elaboration whence flow the sources of the social stream, one may say that genius consists in a mental conflict of judgments, or of ways of action, formerly believed to be connected, which now, for the first time, reveal their contradiction; or in a mental union of judgments, or of ways of action, till now considered unconnected, which suddenly disclose the possibility of mutual confirmation. In genius the tendency towards destructive criticism exists as well as the tendency toward inventive creation, but the former is ruled by the latter. Its critical spirit breaks the habitual links of thought only to utilize the fragments. What constitutes the most typical feature of genius is its aptitude to perceive the possibility of contradiction or of association among notions or rules till now considered as reënforcing or as eliminating each other.[1]

Thus, in the mind of the inventor takes place the same conflict or the same union of aims and of ideas which arises in the mind of the imitator, and which causes the logical conflict or the logical union of imitations. The difference between the two cases is, that the feeling of the possibility of union or of conflict is only vague in the imitator's mind, especially in the first case, while the same feeling is most intense

[1] Logique sociale, pp. 166–173.

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in the inventor's mind. Thus, whereas in the brain of an imitator the encounter of two inventions susceptible of association results only in an intensification of both, the same encounter, in a brain of genius, terminates in a new invention, a result of their combination.[1]

Inventions and discoveries do not, however, follow one another at random: the order of their appearing is in general irreversible. From this point of view Tarde distinguishes the inventions that are capable of combining or of coexisting without damaging one another from those that are destined by incompatibility to a substitution of one for another. If the former should be found in an almost identical order among people of different nationalities which did not communicate with one another, the possibility of their appearing in an inverted order might still be conceivable. But the inventions of the second species appear to us in an irreversible series. Consequently we cannot conceive the possibility of the invention of the rifle before that of the arquebuse, or suppose the inversion of the inventions which bring us from the chariot of ancient days to the locomotive. The reasons for this irreversibility, says Tarde, are twofold: logical, that is, tending towards a systematization of inventions, and teleological, *lois du moindre effort*.[2]

How is the unification of different inventions accomplished in a society? By the same process, answers Tarde, by which every single invention is produced. The systematization of elementary inventions is nothing but a more complex invention, which is produced by the same alternation of conflicts and unions assumed by him to be the condition of social progress. The critical spirit, eliminator and purifier, and the inventive genius, constructor and accumulator, collaborate to create that nucleus of principles which we find in every developed society, and in which, under the different names of catechism, constitution, ethical and legal precepts, economic laws and æsthetic rules, we find what we could term a religious, a juridical, an industrial or other grammar. It is only after the grammar is

[1] Logique sociale, pp. 173, 174. [2] *Ibid.*, pp. 180–185.

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constituted in its typical features that the dictionary of any social institution can without limit increase through the accumulation of secondary inventions, assuming what Tarde calls the "grammatical livery," as, for example, legends conforming to dogma, facts explained by theory, sentences according to legislation and artistic productions responding to a dominating formula.[1]

The same process of unification is accomplished in three separate phases. The first corresponds to that which in the brain of a single inventor precedes the birth of an invention. Inventions appear and propagate themselves in the still virgin social *milieu*, each in its own field, which is limited where the conflict arises or where the affinity with other inventions reveals itself. Then begins a second and most important period, in which are remarked both the contrasts and the possibilities of accumulation; and the work of unification begins. In the third period, the essential features of social institutions having been fixed by the unification of the various groups of inventions, the accumulation of secondary inventions begins. This is the epoch when the martyrology of a religion enriches itself and its theology develops into a subtile casuistry — the epoch in which the applications of a law or of a ruling scientific conception multiply until the moment when that progression is stayed by the shock of some greater new invention that turns the stream of imitation into another channel.[2]

While the different groups of inventions are organizing themselves, a more complex elaboration is gradually accomplished by the coördination of the groups themselves into a larger unity. Progressively the various social institutions and all the groups of men in which they are incarnated — all the organized and living powers of a society, factories, armies, convents, churches, academies, corporations of every kind — blend their dissonances into one superior harmony under the empire of one common ideal. Lastly, the national unification tends toward a system of nations, federations or gigantic empires, which represent the highest production of social dialectic. As Tarde expresses it:

[1] Logique sociale, pp. 192, 193. [2] *Ibid.*, pp. 193–195.

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In the far distant past, perceived with difficulty but nevertheless appearing in glimpses, we discover embryos of nations, boroughs or villages scattered at great distances on a vast tract of uncultivated territory, resembling stars in the sky. These primitive communities had in the beginning as little intercourse with one another as France and Japan in the Middle Ages or as Rome and China in ancient times. However, this golden era of foreign politics does not last. The cities, in growing, draw nearer; they take up arms and fight, or unite to struggle against a common foe. This era of close and bloody or astute and insidious dialectic terminates only by dint of wars and alliances, conquests or annexations, when a vast empire is by this means created, portion by portion, resting at last, well ordained and peaceful in its uncontested power. The novel type of civilization born of this progressive union soon breeds and surrounds itself either with colonies, thus repeating and consolidating itself, or with examples of every kind that continue to enlarge the domain of its activity. . . . Such is the law of the normal development of nations, so often, however, interrupted by warlike catastrophes.[1]

III.

Such is, in its prominent features, the sociological theory of Tarde — a theory far more interesting in its details and applications than will be supposed from the rough sketch which limits of space make necessary now. It seems difficult at first sight to determine how Tarde may have been brought to conceive its fundamental lines. Before him, imitation, although a matter of great familiarity to all, had usually been neglected, not only by sociologists, but even, as Professor Baldwin states, by psychologists. We find it superficially mentioned in one of the most suggestive works of Walter Bagehot, *Physics and Politics*, which can have been known to Tarde only in the French translation published in 1877,[2] when, it is to be supposed, the general outlines of his theory were already formed. Yet, on reflecting well, it is not really difficult to discover the point of departure in the formation of Tarde's theories. We possess evidence of

[1] Logique sociale, pp. 195, 196.

[2] In Bibliothèque scientifique internationale, Germer Baillière & Cie., éditeurs, Paris.

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the greatest importance on this point in his first philosophical writing, an essay on *La croyance et le désir*, published in 1880 in Ribot's *Revue philosophique*. In this essay, which is particularly suited to reveal the typical features of Tarde's philosophical temperament, he endeavors to demonstrate the possibility of explaining all mental phenomena as incidental to the distribution of the raw material furnished by sensations into the two mental channels of *croyance* and *désir*, conceived as two Kant-like forms or schemes. Tarde adds that the appetitive power of the soul (*désir*) tends exclusively to the increase of belief (*croyance*), which constitutes the specific content of theoretical activity. Thus he is brought to give an absolute predominance to the intellectual or logical factor in mental development.

> Certainty — the maximum of belief — is always the objective point of desire (*désir*). . . . Men must have passions . . . but why that summer heat if not to mature the fruits of the spirit — the ultimate conclusions, of whatever kind, in which a long life of turmoil finds its consummation? It is the same with peoples. From age to age knowledge accumulates and is added to the teaching of the senses, which themselves go on multiplying indefinitely through the growing diversity of life. But the passions, fortunately, are far from developing on a like scale; and if civilization multiplies our needs, it distributes among them only an equal or diminishing current of desire. A people among whom should prevail perfect security, unlimited credit and the most extensive and complete knowledge, would still of necessity labor, but would manifest little ambition, little emotion, save in respect to preserving their happy state; and for the precise reason that they would have reached the limit of all desire. Consider the hatreds, the ferocity, the vices that civilization destroys, the knowledge and the rights that it produces. On the other hand, the savage, uncontrolled and ignorant, a prey to unceasing doubt and disquiet, puts faith only in the teachings of his senses. . . . Such are the two extremes of history.[1]

Here we find the germ of that conception whence will later develop the plan of the *Logique sociale*, in which Tarde

[1] Essais et mélanges sociologiques (Lyons, 1895), in which was included the paper cited above. See pp. 298, 299.

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claims that the logical tendency to unification is the true organizing factor of social institutions and of social development. In connection with such views, Tarde advances the following proposition, containing, if I am not mistaken, the embryo of his sociological theory: "All social changes, small or great, spring ultimately from individual initiative, from fragments of more or less shattered personal projects."[1] It is hardly necessary to point out that such a conception is idealistic in character. It is a fact that the idea of human thought and human will as being the most essential factors of historical transformations is the corner-stone of that movement of speculation whence, in the middle of the eighteenth century, sprang the first attempts towards a scientific contemplation of human history. We find it at the basis of the so-called theory of the organic unity of the historical world, as first divined by Vico, taken up by Herder and his school, accepted by Goethe and the Romanticists, and afterwards developed in a more comprehensive synthesis by Georg Hegel.

But the Germans had ended by more and more identifying the unity revealed by historical groups with a transcendent and metaphysical entity. German idealism underwent a transformation in England, where, as Taine discerningly remarks, Thomas Carlyle gave his compatriots an English transcription of the German conceptions. By the mental habit of his race abhorring the vagueness of abstractions and of merely speculative data, the author of *Heroes and Hero Worship* was led to identify the unity of "historical species" with the concrete and living element, the "hero"—that is, to consider the historical species as the result of the action of a genius upon the social *milieu*, by means of which the unique type gradually develops itself from an original discordant multitude of separate and hostile groups—raw material on which the ideal model stamps its mark. Where the Germans place an "idea," Carlyle places a "hero." The fixed species of the German metaphysics is transfigured by the Anglo-Saxon brain into a concrete, almost a palpable, fact.

There was but one step from Carlyle's conception to Tarde's.

[1] Essais et mélanges, p. 307.

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In the place of the "hero" Tarde sets "invention," meaning by that word any improvement whatsoever, traced back to an anterior innovation, in any kind of social phenomena. In his conception of the social process the power of transformation is attributed not only to genius, the appearance of which is to be considered as a revolutionary event, but to each idea, great or small, easy or difficult to conceive, which comes to life in the social *milieu*. In this view the action of genius appears to be a single manifestation of a more general law — namely, that ideas and inventions of every kind, no matter whether important or not, are causes of historical transformations.[1]

In Tarde's theory the element of imitation appears to be a datum, furnished by biology, in support of this fundamental idealistic conception. It must not be forgotten that this theory was gradually outlined during the decade 1870–80, at a time when the great movement proceeding from Comte's positivism and Spencer's evolutionism was at its height. We must remember, moreover, that the dominating philosophy of that time was, by its very nature, forced to attenuate the importance of the mental factor in historical evolution. By not sufficiently appreciating the qualitative and specific difference between social and biological fact, that philosophy necessarily conceived progress and civilization as results of a fatalistic process, not unlike that through which the living organism grows from its cell. It is nevertheless true that the idea of the transmissibility of thought and of its consequent power to modify the social *milieu* was germinating with renewed vigor in that philosophy; for experimental psychology and mental pathology were beginning to reveal the miracles of hypnotism and suggestion. Doubtless the marvelous results of experimental research in mental biology must have suggested to Tarde the thought of turning the fact of imitation to account as a firm support for his idealistic conception of history. It is through hypnotism that Tarde succeeds in seizing the influence of one brain upon another brain, in which is revealed to him the true propagation of ideas in the social *milieu*.

[1] Lois, p. 3.

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IV.

Such a combination of the merely biological datum of imitation with the Carlylian idealistic conception of history is effected in a crucible furnished by a polygenistic view of cosmical origins. Tarde emphatically denies the initial homogeneity postulated by Spencerian evolutionism, and asserts the plurality of the lines of development. "Evolution," he declares, "is not a single path, but a network of communicating roads (*voies anastomosées*)."[1] To a critic who accused him of being hostile to the true spirit of evolutionary philosophy, Tarde objected that the conception of a unilineal evolution is by Herbert Spencer's disciples arbitrarily made to pass as the only possible deterministic conception of transformation. One may deny, he observes, that that which is normal is uniform, and at the same time admit, in every order of phenomena, the necessity of a genesis by transformation.[2] This does not compel one to admit the intervention of a free will — of a free caprice, divine or human, upon which should depend the choice of a multiplicity of possible developments; for, as Tarde explains:

> It suffices to believe in the heterogeneity and initial autonomy of the elements of the world — elements which contain potentialities that before their realization are unknown and profoundly unrecognizable, even to an infinite intelligence, but that, nevertheless, are realized and determined according to their own law, and project from the depths of being to the phenomenal surface true innovations, impossible to have been foreseen.[3]

Here it appears that Tarde understands evolution in the wide, vague sense of development from preëxisting principles — the *Entwickelung* of post-Kantian idealism. The scientific conception of evolution, in so far as it results from the analysis of single sciences, implies the principle of the persistence and convertibility of matter and motion, that is, of those two aspects of reality that constitute the termination of any possible inquiry. This assumption of the unity and identity of cosmical substance

[1] Les transformations du droit (Paris, 1894), p. iii.
[2] *Ibid.* [3] Logique sociale, p. 158.

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excludes the possibility of multiple and heterogeneous substances. The scientific doctrine of evolution is essentially monistic; and the initial heterogeneity presupposed by Tarde, in breaking the continuity of cosmic development, will doubtless find itself in open contrast with that doctrine.

Starting from a polygenistic conception of cosmic development, Tarde necessarily assumes the non-identity of social and biological phenomena, and regards their typical and differential elements as irreducible, so breaking the continuity of the phenomenal series. In these assumptions he finds the possibility of a general or "abstract" sociology, called to study the characteristic element of social facts apart from every other concurrent factor. This possibility has been repeatedly affirmed by Tarde, and the idea appears in the preface to the second edition of the *Lois de l'imitation*, where he declares it to have been his intention "*de dégager des faits humains leur côté sociologique pur, abstraction faite, par hypothèse, de leur côté biologique, inséparable pourtant du premier.*" Thus a distinction is presupposed between a general, or, as Tarde says, an "elementary" sociology — tending to establish the typical laws of society, independent of every concrete form whatsoever — and the particular social sciences, devoted to a study of the social organizations actually existing or having actually existed in the past. The antecedents of these dualistic conceptions must be looked for in Comte's classification, wherein the abstract, general and fundamental sciences, having as their object the discovery of laws in the various orders of phenomena, contemplated in all imaginable cases, are discriminated from the concrete, particular, secondary or descriptive sciences, consisting of accounts of the manifestations of those laws in objective reality.[1]

It is useless to take up again the discussion of Comte's classification of the sciences or to repeat the reasons why Spencer's theory seems to be more acceptable and to respond better to the requirements of a monistic conception of the universe. It will be sufficient to adduce the acute and conclusive objections that Vanni, in one of his best works, raised against

[1] A. Comte, Cours de philosophie positive, leçon ii.

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Comte's conception in its application to sociology.[1] Whence, argues Vanni, could the laws of general or "elementary" sociology be inferred, if not from the observation and comparison of the different societies that effectively have contributed and still contribute to human history? It is always a concrete existence that furnishes the data for scientific researches in the field of social phenomena. It is impossible to generalize without abstracting, that is, without gathering from the various single histories of human groups that which is common and essential to all. In this sense, however, abstraction is a mental process presupposed by every science, by every knowledge, by every idea, and accordingly cannot be assumed as the criterion of a classification of the sciences. Abstracting from merely accidental characters of a concrete group or aggregation is a very different matter from abstracting from the reality of the aggregation itself. By the latter method one could have mathematics or physics, but never a social science. The theory that asserts the possibility of an abstract science in the field of social phenomena confuses precisely these two different moments or aspects of the abstraction, and forgets that the basis of the classification ought to be objective. When one reflects that one can rise to the generalizations of sociology, that is, to laws, only after having viewed social life in its entirety, the essentially concrete nature of sociology appears to be incontestable. Vanni very justly observes that to claim that concrete sociology, namely, particular social sciences, ought to be founded on so-called "abstract" or general sociology, is to contradict the spirit of positive research. Is it history, then, that is founded on sociology, and not sociology on history? For these reasons we cannot agree with Tarde in admitting the possibility of a "pure" sociology, that is, of a sociology which does not take into consideration all the elements that we find in reality in social fact, but which assumes, as a matter of inquiry, only one element, mentally isolated from the whole.

Certainly the search after a typical and differential element

[1] Icilio Vanni (now Professor in the University of Bologna), Prime linee d'un programma critico di sociologia (Perugia, 1888), pp. 79, 80.

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of the social phenomenon is quite legitimate. We admit with Tarde the speciality of social in distinction from biological facts. Evolutionism, if kept within the limits of a relative and critical philosophy, cannot be interpreted as a system of universal identity. Evolution, being a change from homogeneity to heterogeneity, implies the process of differentiation. The difference does not arise *ex nihilo:* it is the product of anterior conditions, but cannot be identified with them. Consequently, the characteristic features of each new fact are not looked for in its antecedents. In every group of the cosmical series we find not only the essential elements of all anterior groups, but also the elements which specifically belong to the new group and not to any other. The fundamental problem of sociology does not consist in the investigation of the biological affinities of social facts, but in the determination of the conditions from which arises a new fact, not comprised in the merely biological phenomena. This analysis made by Tarde cannot by itself constitute a sociology either abstract or concrete, because the explanation of social facts, which is the only object of every sociological inquiry, cannot be attained without taking into consideration all the factors, physical, biological, historical, which in reality concur in determining social results. A separate analysis of these various factors is imposed by necessity of method — by a logical reason; but it is only to be admitted as a step, or preparatory measure, to a synthesis reproducing the real complexity of the phenomena. Not one of these single researches can stand by itself as an "abstract science," because, as Vanni so justly remarks: "Abstraction, when assumed as a criterion of the classification of the sciences, must have an objective foundation." In the case of sociology the abstraction from the physical and biological conditions of social fact can be conceived only as a subjective means of inquiry, while the concrete representation of the phenomena cannot be attained without reuniting the elements dispersed by analysis. Tarde's theory, while limiting itself to the determination of the only typical element of social fact, mentally isolated, is not sociology: it is merely

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a chapter of the new science, although extremely interesting and brilliantly conceived.

V.

The capital importance of the methodological problem in the present state of our science will account, it may be hoped, for the somewhat pedantic prolixity of the preceding discussion. It was absolutely necessary to eliminate any possible misapprehension in respect to the position taken by Tarde on such fundamental problems as those concerning the logical character of the science itself. We may now ask ourselves the question: Has Tarde succeeded in his purpose to determine the characteristic element of social fact?

After the splendid and unequaled studies of imitation by Professor Baldwin, one of the most prominent psychologists of our time, it is hardly possible to deny that, in pointing out the influence of imitation in social life, Tarde has made a real discovery, which is to be regarded as one of the greatest conquests of contemporary thought in the field of sociology. The Princeton professor, in his work on *Mental Development in the Child and the Race*,[1] brings, in support of Tarde's intuition, the best resources of experimental psychology. He generalizes and completes Tarde's statements, above all resolving and determining the limits of the fact of imitation; and then establishes, with subtile analysis, the origin and the mode of formation of the imitative instinct which Tarde has accepted as the point of departure of social intercourse. In the general biological law according to which every living being tends directly to secure the repetition or maintenance of useful *stimuli*, and the suppression of damaging or useless reactions, Professor Baldwin shows us in a masterful way the most profound and obscure manifestation of that force which, in its highest degree of development, becomes the plastic element of social aggregations, that is, the force by which is accomplished the transmission of thought from one individual to another within the limits of

[1] Second edition, 1897.

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the same group, and from one generation to another in the course of time.

It is hardly necessary to remark that Professor Baldwin's conclusions not only support Tarde's theory, so far as imitation is concerned, but also indirectly justify his conception, as outlined in the *Logique sociale*, that the logical factor is the original cause of social organization; for imitation, proved by Professor Baldwin to be the permanent substratum of mental and social development, necessarily presupposes a model and a copy. This means that social intercourse must begin, just as Tarde claims, by being unilateral. This means also that leaders of every kind are the agents of social transformations through imitative instinct.

Whatever may have been the developments that Professor Baldwin, in his special and technical competence, has been able to give to Tarde's conceptions, it is nevertheless true, as Professor Baldwin loyally recognizes, that it is the French scholar who has the merit of being the first to point out the efficacy of the factor of imitation in social life. Tarde has revealed to us the means by which the transmission of the products of social activity is accomplished. This means had always been vague, uncertain and undetermined in the various sociological theories issued from the great womb of positive philosophy. The fundamental principle — true, legitimate, irrefutable — which underlies all those conceptions, is that of a movement, vesting and animating the life of human aggregations, forcing them from one condition to another, each connected with its antecedent by the subtile and hidden link of an intellectual continuity, a tradition of ideas, that is, a history. But none of those theories succeeded in formulating that vague intuition. The true and indisputable merit of Tarde consists in having solved the enigma of social dynamism.

VI.

This great soul of truth, which rigorous analysis discovers in Tarde's speculations, is so fitted to become an active ferment of advancement in social science, that it deserves to be purified

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from metaphysical decay. In other terms, we must carefully separate the sociological conception of Tarde from its metaphysical background by bringing it within the limits of strictly scientific philosophy. Whatever the discoverers of the so-called *banqueroute de la science* may think, it is nevertheless true that by the means of positive research human thought has best succeeded in tearing down the greater part of the veil which hides from us the mystery of universal life.

It is above all necessary to eliminate the neo-Leibnitzian conception of cosmical origins to which Tarde is becoming more and more attached, as is shown in the essay on *Monadologie et sociologie*,[1] judged by the author himself to be a "metaphysical revel," and by his recent volume on the *Opposition universelle*.[2] It is quite possible to admit the truth of Tarde's sociological conception, based on imitation and on the predominance of logical factors, without therefore being compelled to agree with Tarde's polygenistic view of cosmical origins. Polygenism, however, if divested of the Leibnitzian involucrum, which includes the existence of heterogeneous substances and breaks the continuity of the phenomenal series, can be perfectly harmonized with the monistic philosophy, on the condition that the many centers of human procreation and social development be conceived as the results of the same causes, operating with a different degree of intensity.

But polygenism, thus conceived, is not in contradiction with the Spencerian law of progressive differentiation. Whatever may be the conditions in which the growth of social aggregations is accomplished, whatever may be the difference in the degrees of development owing to the different intensity of inventive energy and imitative instinct in each, it is true that the multiplicity of human aggregations that Tarde perceives in the origins of history shows an undeniable homogeneity in the inferiority of conditions whence each advances to its destinies. The difference, and in several instances the divergence, of the lines of development from the common lower level begins with

[1] Essais et mélanges, p. 309.

[2] L'opposition universelle: essai d'une théorie des contraires (Paris, 1897).

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the appearance of such a degree of mental activity (invention) as renders possible the gradual and, in some respects, voluntary transformation of the conditions of life. Thus, while the homogeneity of mental inferiority is found at the origin of history, the progressive differentiation produces itself in the course of evolution through invention. The progressive unification, opposed by Tarde to the Spencerian law of differentiation, ends in a differentiation of the highest degree. Through the assimilation and the absorption of minor groups — families, tribes, cities — into more complex unities, invention by its progressive manifestations marks the advance of difference.

After eliminating the metaphysical interpretation of Tarde's polygenism, it is the duty of critics to remove all ambiguity from his conception of the predominance of logical factors in social development, as outlined in his *Logique sociale*. This means the necessity of determining, with rigorous analysis, the interdependence of the logical or intellectual and the other concurrent physical and biological factors of social life. An effective essay in this direction has been made by Professor Giddings in his *Principles of Sociology*.[1]

As a great admirer and a faithful disciple of Gabriel Tarde, I would, in concluding this summary sketch of his sociological theories, express the hope that the conceptions of the French master may be the germ destined to be developed by the work of scholars who, like Professors Giddings and Baldwin, still remain true to the spirit of positive and scientific philosophy. Tardian sociological theory — if reconnected with scientific monism — does not give to social fact the character of an explosion, interrupting the continuity of the evolutionary process; does not show it as something extraneous, in its deepest roots, to biological activity; but exhibits it as a development of biological factors, combined in a product of a superior order. For the domination of social naturalism, inaugurated by careless interpreters of Herbert Spencer, Tardian theory, if purified of its metaphysical surroundings, might substitute a determinism

[1] F. H. Giddings, The Principles of Sociology (New York, The Macmillan Co., 1896).

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connected with an ideal aim, set forth by inventors as the proper means to transform and to ameliorate the conditions of social existence. In recognizing that thought, in general, and the impulse proceeding from it, can, like the forces of nature, spread by way of imitation, be transmitted, be communicated, now remaining concealed, now being revived, now being multiplied in virtue of their concentration, Tarde restores to the ideal factor its true value in the progressive renovation of social conditions, and opens for us the way to understand the possibility of the most radical transformations in social conditions, thus restoring in our souls the faith in the destinies of humanity, and in its progressive ascension "above the plane of physical necessity into the freer air of liberty and light." [1]

NEW YORK CITY. GUSTAVO TOSTI.

[1] Giddings, *op. cit.*, p. 422.

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REVIEWS.

Die Getreidehandelspolitik der Europäischen Staaten vom 13. bis zum 18. Jahrhundert, als Einleitung in die Preussische Getreidehandelspolitik. Darstellung von W. NAUDÉ. Acta Borussica, herausgegeben von der Königlichen Akademie der Wissenschaften: Getreidehandelspolitik, Erster Band. Berlin, Verlagsbuchhandlung Paul Parey, 1896. — 443 pp.

At the request of the Academic Commission for the Publication of the Acta Borussica, Dr. Naudé has undertaken in this introductory volume to give a general exposition of the corn laws of the several European states from the thirteenth to the eighteenth centuries; for in the opinion of the Commission it was "only with such a background and in comparison with neighboring states that the Prussian corn laws of the eighteenth century and Frederick the Great's policy could be rightly understood and properly appreciated." Though thus written as an introduction to an official publication, Dr. Naudé's present volume is eminently self-sufficing and forms a very valuable contribution to the history of commerce.

In the first book a brief outline is given of the corn laws of Athens, Rome and the early middle ages. Athens being of necessity a corn-importing state and relying upon commerce for her wealth, every effort was made by the government to provide a steady supply of grain for the people at regular prices. To this end state storehouses were erected, all exports of grain were forbidden and the imports were regulated by the city authorities; but, in spite of these precautions, private speculation and corners in grain continued to interfere with the government's efforts to protect the consumers. After the ruin of the Italian farms and with the development of the Empire, the grain trade of Rome was likewise taken in hand by the government in order to feed the populace at home, to support the armies on the frontiers and to equalize the effects of good and bad harvests in different parts of the Empire. Thus the Roman Empire, as Naudé expresses it,

> extending from the Euphrates to the British Isles, and from the Sahara to the steppes of the Volga, constituted one immense economic unit, having a unified system of weights and measures, a common law, a unified monetary system, freedom of trade and, at least during the second century before Christ, a universal right of emigration.

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This extended commercial system was of course broken up with the downfall of the Roman Empire, and, in spite of the efforts of Charlemagne, mediæval Europe became disintegrated into a great number of small and precariously self-supporting sections. During the twelfth and thirteenth centuries the mediæval towns instituted commercial relations with the surrounding country to supply themselves with grain, and each city thus developed its own corn laws. Feudal and provincial corn laws grew out of these; and, with further unification, the grain-trade policies of the several European states were gradually developed.

Taking up these policies in turn, the author passes on in the second book to consider the corn laws of France. It was the effort of the French monarchs to break down the barriers between the provinces and to institute internal freedom of trade. This was done for the *Pays d'Élection* under Henry IV and his famous minister Sully. France was then preëminently an agricultural country, and not only internal freedom of trade, but also the free export of grain was to her advantage. Sully's policy was, therefore, directed to this end and met with success during his life. We are accustomed to regard Colbert, on the contrary, as the oppressor of the French agriculturists; but this view must be considerably modified after reading Dr. Naudé's exposition of the subject. According to him, French agriculture was already on the decline when Colbert assumed control, and in the interest of self-preservation France had therefore necessarily to become an industrial state. Thus Colbert's whole purpose was to provide a cheap and regular food supply for the French industrialists from French soil. But inasmuch as the agricultural lands lay on the sea-coasts and were cut off from the industrial sections of the interior, it was more profitable for the agriculturists to export their grain over sea than to send it inland. The exportation of grain had therefore to be prohibited in order to build up an export trade in French manufactures, which alone could allow France to compete successfully with the rival states of Europe at that time. Thus, by limiting the free exportation of grain and encouraging the internal corn trade, Colbert succeeded, in the author's opinion, in preventing speculation and providing a regular and cheap food supply for the French industrialists upon whom France had then to rely—and that, too, without working any injury to the agricultural classes. Dr. Naudé is supported in his point of view by material that seems thus far to have been left out of account in French economic history, and his analysis of the period is both thorough and convincing.

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The main interest of the third book, which deals with the early English corn laws, centers around the export bounty instituted in 1689 under William III. Up to 1393 the policy of the English government had been to protect the consumers and to provide a sufficient food supply for the people. Under the Tudors, on the contrary, the yeomanry was sacrificed to the landowners, and the wool industry was encouraged at the expense of agriculture. Having always grown enough grain for her own needs, England had thus far not concerned herself with the grain trade; but the exportation of wool, bringing with it the ruin of agriculture, necessitated the importation of grain from the Continent. Thus the English found themselves paying out large sums for their own wool to be exported and for foreign grain to be imported in foreign ships. Something, it seemed, might be saved by building up a marine of their own. So a policy was instituted under Elizabeth, and carried out under the Navigation Acts of Cromwell, to encourage English shipping. To add to the export tonnage, attempts were made to send out grain as well as wool in English bottoms, but the agricultural lands failed to respond until the bounty was given under William III. The strange experiment proved successful. Agriculture was again profitable, and the grain exports aided in the development of the British marine. Thus, when England was ready in the eighteenth century to pass over to industrialism, she was in a position to maintain her commercial supremacy. The effect of the corn-export bounty in establishing England's commercial supremacy is brought out with striking clearness in Dr. Naudé's book; and here again we have a distinct addition to economic history.

The fourth book describes the corn-law politics of the various cities and states of Italy during the period under consideration; and shows how the agricultural population was everywhere exploited by the various governments in favor of the townspeople — industrialists, merchants and capitalists — and the government officials, feudal, republican or ecclesiastic, as the case might be.

The Spanish-Portuguese policy forms the subject of the fifth book. After the expulsion of the Moors, little attention was paid to agriculture in the Iberian peninsula; for much of the land was unfertile, and the kings needed soldiers rather than peasants. Thus Spain and Portugal were importers of grain, and drew their food supply from northern Europe in return for their colonial products.

In the sixth book the scene is changed to northern Europe, and the author begins by tracing the development of the grain trade of

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the Hanse cities and the Teutonic Orders. The Knights collected grain by way of taxes from the countries under their control and attempted to maintain their monopoly over against the towns. The Hanse merchants bought grain from the peasants and landowners of the great northern plains and shipped it down the rivers to the Baltic for export in their vessels to the countries of northern, western and even southern Europe. Theirs was the monopoly of the Baltic during the thirteenth, fourteenth, and fifteenth centuries, until the Netherlands finally fell heir to their commerce in the sixteenth century. Dr. Naudé gives an interesting account of the struggle of the Hansard merchants with their Dutch rivals, under the leadership of their famous organizer and diplomat, Jürgen Wullenweber.

The growth of the commercial supremacy of the Netherlands is given in some detail in the seventh and last book of Dr. Naudé's present volume. Amsterdam became the center of this commerce, and free trade was the unalterable policy adopted. After gaining their desired supremacy in the Baltic, the Dutch bought grain from the monarchs and landowners of the surrounding countries wherever good harvests gave low prices. They stored it up in Amsterdam, and thus always possessed a supply of corn to export to southern and western Europe, or even back again to the grain countries of northern Europe, wherever the harvests had failed. Thus Amsterdam became the trade center of Europe during the seventeenth and eighteenth centuries; and though the commerce of the Dutch branched out thence in every direction, it was always the grain trade of the Baltic which formed the trunk of the system. And so it was that when England developed the grain fields of America later on, the roots of Holland's commercial supremacy were undermined.

Dr. Naudé's work is careful and thorough even beyond the German standard of exactness. It warns one anew in the reading of the danger of drawing general conclusions from the tendencies of great economic periods without taking into account the geographic conditions of each land. Mercantilism, the doctrines of the Physiocrats, and the theories of free trade, protection and export bounties—all become more intelligible when taken thus in detailed connection with the immediate needs of each country at definite periods of its development. From the present book, however, may be drawn one economic conclusion: namely, that there seems to have been no period in European history when the desire for individual gain did not lead to evasions of all regulations made in the interest of the consumers or for the welfare of the state. Speculation in grain appears, in short,

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to be the one phenomenon common to all the countries described, from the times of Greece down to the nineteenth century; and there is evidence enough to show that the phenomenon is still existent.

For the work that the Commission has in hand it may have been necessary for the sake of comparison to neglect chronology and to deal with each of the European states separately from the thirteenth to the eighteenth century. But one cannot help feeling that better results would have been secured if the general course of European events had been kept in mind, and an account of the growth of the corn laws of Europe as a whole had been given. In that case we should have been able to grasp the reciprocal commercial relations of the various states during the period described; whereas, according to Dr. Naudé's arrangement, each state is treated in isolation from its neighbors and we must continually refer back in order to follow the course of the general development. Tables and figures form a large portion of the book; and these, though they add to the accuracy of conception, make the work somewhat difficult for the general reader. A well-compressed summary here and there, and especially at the end of the book, would have added immensely to its general usefulness.

LINDLEY M. KEASBEY.

BRYN MAWR COLLEGE.

Die Handelspolitischen und sonstigen Völkerrechtlichen Beziehungen zwischen Deutschland und den Vereinigten Staaten von Amerika. Von DR. GEORGE M. FISK. Stuttgart, 1897. — xiv, 254 pp.

This work forms the twentieth number of the *Münchener Volkswirtschaftliche Studien*, published by Brentano and Lotz. It is mainly historical, only one chapter having the character of a distinctly statistical study. The subject-matter of most of the book is the "commercial relations," to which ten out of the twelve chapters are devoted. Only two other topics are treated at any length, "Naturalization" and "Extradition," to each of which a chapter is given.

The first seven chapters fall quite naturally together, covering the years from 1776 to 1852; and take account of treaties in regard to commerce concluded between Germany and the United States, all of which fall within this period. This is in some respects the most satisfactory portion of the book, since it lends itself to a more systematic treatment than the later parts and contains more original

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work. Chapters VIII and IX, forming something of a digression as to subject, though next in order chronologically, consider the treaties of 1853–57 in regard to extradition and those of 1868 with reference to naturalization. These two chapters could, perhaps, better have been placed in some other part of the book. Chapter X returns to the subject of the earlier chapters and takes up at length the development of the tariff policies of the two countries in the period from 1846 to 1894. This chapter is a clear and concise summary of the subject, but contains little that is new to students of either nationality. It prepares the way for a study in the next chapter of the more recent, in some cases still pending, questions, being an account of negotiations since the establishment of the German Empire. The chronological order is here abandoned on account of the general chaos of the subject-matter, and a brief section is devoted to each of the following topics: consular regulations, trade-marks, copyrights, patents, the "Saratoga convention" regarding the prohibition of the importation of American pork, the Samoa question, salt duties, sugar duties, prohibition of the importation of American beef and present treaty relations. Chapter XII is a study of the statistics of exports and imports between Germany and the United States, taking up each important article in detail, and including a comparison of German with English and French trade with the United States. This is by no means the least interesting portion of the book, especially for American readers, for it presents some very suggestive figures as to the German market for American goods, particularly agricultural products.

Dr. Fisk has not only given us an account of negotiations and treaties, but has presented them in their relations to economic and political conditions in the two countries. The first part of his task is most satisfactorily performed; but the last part, though not open to serious criticism, leaves something to be desired, since little that is not already familiar is found therein. How much more in this direction is possible may be a question; but a more complete study of motives and causes, giving more prominence to the broader tendencies of the facts chronicled, seems desirable. The arrangement of topics, too, might have been improved, though it is a fair question whether a more satisfactory arrangement than the simple chronological one followed is possible with the subjects treated. The author has preserved an admirably judicial attitude throughout, displaying a degree of impartiality quite in keeping with his position as an American writing for publication in Germany. Written originally

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in English, the book has been fortunate in the translation, displaying very few of the defects which too frequently mar translated works. For the American student Dr. Fisk's monograph can but prove a valuable contribution to the as yet largely unwritten diplomatic and commercial history of the United States.

LEONARD W. HATCH.

POINT CHAUTAUQUA, N.Y.

Industry in England: Historical Outlines. By H. DE B. GIBBINS, M.A. With maps, tables and plans. New York, Scribners; London, Methuen, 1896. — 479 pp.

This book is not only several times bigger, but also several times better, than the little *Industrial History of England* by the same author, out of which it has grown, and which has "gone through several large editions" since 1890. At that time Mr. Gibbins' qualifications for the task of the historian consisted in a great enthusiasm and an ardent sympathy with the working classes, and above all in an intimate knowledge of and a thorough confidence in the historical teachings of the late Professor Thorold Rogers. The success of the earlier book was due in a considerable measure to the craving of extension classes in England and teachers with "large courses" in American colleges for a book which, as the phrase goes, should "cover the ground" without being expensive. Some teachers who incautiously embarked upon it were not a little taken aback, perhaps, by what Mr. Gibbins now handsomely apologizes for as "the errors of fact and of expression" they soon came across. Since writing that *opuscule*, however, Mr. Gibbins' reading has taken a wider range; and he has now produced a work which will be very serviceable in academic instruction. It is not only systematically arranged and lucidly written, but it succeeds in being — what some recently issued works on the subject can hardly be called — actually interesting, if not taken in too large doses.

To criticise its contents at any length is hardly necessary — if for no other reason, because it is in the main a compilation, though an excellent one, from a comparatively small number of writers, most of whom, such as Rogers, Cunningham and even the present writer, have already been reviewed at length in this QUARTERLY. But in the interest of the new editions which the book certainly deserves and will probably reach, attention may be called to a few details. Page 40: "extensive and intensive culture" needs definition. Page 44, n. 4: "passed" is misleading as applied to a Saxon "doom."

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Page 75 : Domesday Book hardly "calls" the socmen "free." Page 84 : the diagram is inadequate and misleading; why not reproduce in outline one of Mowat's maps? Page 148 : "pleasant" is part of the old idealization of the middle ages; the difficulty about the present organization of labor is that the employer is not sufficiently intimate with the employee even to cuff him. Page 230 : it is an exaggeration to say that "London took the place of Antwerp"; so far as any city did, it was Amsterdam. Page 396 : an odd use of "cogency." Page 397 : a mixture of constructions —"lead the question." All these can be changed by the substitution of other words. There are some other pages which call for a more heroic treatment, if the publisher can be induced to agree to it. Thus, the sneer at "historians," which has unfortunately survived from the earlier book (page 111), is rather juvenile; and the prophecy about India (page 22) hardly rests on sufficient knowledge to be worth retaining. Pages 379, 380 also dangerously approach mere rant.

The student must be warned that Mr. Gibbins is still so far dominated by the teaching of Thorold Rogers as hardly to realize the importance of some of the considerations which he derives from other authorities. Thus, like Rogers, he fails to bring out the relation of the stock-and-land lease to the normal constitution of the Midland manor of the later middle ages : to speak, for instance, of the landowner who let his land on the stock-and-land lease as still "a cultivator" is misleading. In spite of his classification of the forms of industrial organization, he fails to grasp the characteristics of the "domestic" industry of the eighteenth century, and altogether clouds the figure of the capitalist "undertaker." The characteristic Rogerian assertions, as to the causes of the Black Death and the confiscation of gild lands, are reasserted. As to the former, Mr. Gibbins has a long note (p. 172) in reply to the present writer, who still finds himself unable to see the force of the evidence to which Mr. Gibbins alludes, and can but refer once more to his article in this QUARTERLY (IV, 381).

Consideration of these disputed points, however, had best be left to the reader's own judgment. Mr. Gibbins has given us a very convenient treatise, which, though it proceeds on rather conventional lines and has little regard for that morphology of economic history or that quantitative estimate of economic phenomena which has still to be attempted, will be of a good deal of use for several years to come.

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La politique commerciale de l'Allemagne. Par M. ÉMILE WORMS. Paris, 1895. — 305 pp.

Professor Worms' present work is a supplement to his *L'Allemagne économique, ou histoire du Zollverein allemand*, published in 1872, and embodies the tariff history of Germany from 1879 to date.

The first chapter covers the period from 1879 to 1891; while the second and third are devoted to a study of the results of the protective policy, the former noting the effects on prices, the latter the financial and general economic effects, with the conclusion that that policy "*ne se recommande guère par ses fruits de nature économique.*" In the next chapter the author reviews the development of economic and political conditions in Germany as compared with other European countries; and explains the course taken by German commercial policy, especially the more recent changes therein. This chapter really forms an exceedingly interesting and suggestive outline of the industrial and commercial history of Europe, and prepares the way for the history of recent years in the next four chapters. Of these the first points out the *nouveau cours* taken by Germany, that is, the movement toward free trade by way of international commercial alliances, inaugurated by treaties with Austria-Hungary, Italy, Switzerland and Belgium in 1891. The following chapter is perhaps the most interesting to the reader of to-day, as it considers at length the present agricultural problem in Germany. The proposition to relieve the German farmer from foreign competition by means of tariff duties is canvassed in all its phases, with a decision in the negative. To the question whether this foreign competition with resulting low prices is but a temporary phenomenon, the answer, after careful examination, is unfavorable to the agriculturist. A discussion of the way out of the dilemma leads to the conclusion that, while other European countries may abandon the cultivation of cereals for other products, this way of escape is closed to Germany because of her peculiar soil and climatic conditions. The sum of the whole matter finally is that theory dictates a revision of tariff duties as to cereals in the direction of free trade, a more intensive system of land cultivation, and the reform and development of agricultural credit agencies. This whole chapter is of peculiar interest to Americans, in view of the similar problems of farm indebtedness and depressed prices of agricultural products which face the United States. The final chapter is given up mainly to the history of the Russo-German commercial treaty of 1894, a further step in the new movement toward free trade. In a rather extended epilogue the author gives a glance to the future,

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discussing at some length the question of an extension of the policy of commercial alliances, and the relation of free-trade England to the other countries of Europe in that connection. The possibility of a commercial union of the British Empire and the effect of such an alliance upon the other nations receives considerable attention; and the epilogue closes with a brief consideration of the commercial relations and possible alliance of Germany and France.

The general scope of the work is summed up by Professor Worms himself in the statement that he planned to show how the German Empire, after having followed an exclusive policy of protection, has turned from that and is moving toward free trade (its own older policy) through commercial treaties — an example he would gladly see imitated by others. The announced intention of the author is to make the work purely historical, but he manifestly conceives history in the broad sense as involving an analysis of cause and effect as well as a chronology of facts. The work is philosophical in spirit, and gives us not only tariff history, but also its relation to other branches of history. He frankly declares himself an advocate of *libre-échange*, with concessions to protection as a temporary measure; but this confession of faith does not prevent a very fair-minded treatment of his subject. Nor does his French blood prevent an unprejudiced attitude toward German affairs. The work is timely in view of present problems; and is so scientific and scholarly that it must be of great interest to the student of European and German commercial history.

LEONARD W. HATCH.

POINT CHAUTAUQUA, N. Y.

The Physiocrats. Six Lectures on the French *Économistes* of the Eighteenth Century. By HENRY HIGGS. London and New York, The Macmillan Company, 1897. — x, 158 pp.

Adam Smith thought that it would not be worth while to examine at great length the errors of a system of political economy not adopted by any nation, but existing only in the speculations of a few men of great learning and ingenuity, and destined never to do any harm in any part of the world. English economists, apparently agreeing with him, have been satisfied for more than a century with the somewhat one-sided account of Physiocracy, which, in spite of his misgivings, he appended to his description of the Mercantile system. Meanwhile, the labors of Lavergne, Oncken, Schelle and Bauer, not to mention others, have largely modified the traditional

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view of the *Économistes*, while the recently published *Lectures* of Adam Smith have abundantly confirmed the suspicion that he himself owed to them far more than he ever realized. It is Mr. Higgs's misfortune that his own lectures, delivered before the London School of Economics, were given at a date just too early for him to take account of Mr. Cannan's find; but even so, his concise and attractive book well deserves the attention of English-reading students of the history of political economy.

Mr. Higgs's method is historical rather than analytical. His first lecture, devoted to "The Rise of the School," describes briefly the industrial condition of France, and especially the French system of taxation, in the middle of the last century, indicating the influence of these external facts upon the development of Physiocracy. The chief intellectual influence exerted upon the *Économistes* Mr. Higgs traces, as might have been expected, to Cantillon. It cannot be disputed that Mirabeau was deeply influenced, before he became an *Économiste*, by the study of Cantillon's unpublished *Essai sur la nature du commerce en général*. By his subsequent acquaintance with Quesnay, however, "he was converted," Mr. Higgs says, "into a lifelong disciple and friend" of that thinker. The doctrines of the school were, therefore, Quesnay's, not Mirabeau's; and it is by no means clear that Cantillon's *Essai*, though published in 1755, exercised a determining influence over Quesnay himself. Upon this crucial point Mr. Higgs has elsewhere suggested [1] that

> The debt of Quesnay to Cantillon is not a borrowing of detail, but an influence of spirit. It was not upon questions of *grande* or *petite culture*, of oxen or horses, of productive or unproductive labor, that he found help in Cantillon, but in the scientific attitude which he adopted when he approached the distribution of wealth.

Such an influence of spirit it is as difficult to prove as to disprove. It may be equally possible to attribute Quesnay's scientific attitude to the effect of his medical studies. Meanwhile, Mr. Higgs brings out clearly that intimate personal connection between the members of the school, and that general devotion to a common oracle, which distinguishes the Physiocrats from all other economic schools, even from the Austrians.

The second and third lectures are devoted to "The School and its Doctrines." They describe at some length the career and the writings of Quesnay, Mirabeau, Dupont de Nemours and Mercier de la Rivière,

[1] *Quarterly Journal of Economics*, VI, 454.

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and mention briefly a number of minor Physiocrats. The treatment of Turgot, who never considered himself a member of the sect — or indeed of any sect — is reserved for the following lecture, on "The Activities of the School." In this lecture the reader is led to see that Adam Smith was not absolutely correct in characterizing the Physiocratic system as "never adopted by any nation." Compared, however, as Adam Smith would have wished to compare them, with the immense vogue of the Mercantile system, the triflings of Leopold of Tuscany or of Joseph II with Physiocratic precepts, or even the more persistent efforts of Carl Friedrich of Baden, were virtually nothing. "The Opponents of the School" are treated in the fifth lecture, but the great figure of Adam Smith is reserved for the next and last lecture — that on "The Influence of the School." Had Mr. Higgs been able to use Adam Smith's *Lectures on Justice, Police, Revenue and Arms*, he would doubtless have given the first third of his lecture, devoted to Adam Smith, a somewhat different content. It is therefore unfair to criticise his treatment. Perhaps, for the purpose in view, nothing else was practicable at the time than to recapitulate, almost in Adam Smith's own words, the five criticisms which he passed upon the "agricultural system." But to some points in the remainder of the sixth lecture attention may fairly be invited.

McCulloch's remark that Adam Smith's refutation of the system of the *Économistes* is unsatisfactory because Adam Smith did not recognize the existence of no-rent land, Mr. Higgs characterizes as "a shallow criticism." Poor old McCroudy has become so pitiably shallow in these profound days that it were less than Christian to refuse recognition of any rudimentary idea that he may by chance have had; and in this case the root of the matter appears to be in him. The Physiocrats regarded the *produit net* sometimes as a surplus of commodities, sometimes as a surplus of values. As a surplus of commodities it was most conspicuous in agricultural production, and appeared to be due to the characteristic element in such production, the soil. As a surplus of values the *produit net* was naïvely supposed to be due to the same cause; and this transcendence was supported by the fact that the surplus of value flowed generally to a separate and identifiable landlord. In other words, a distributive result, affecting values and manifesting itself because of the system of land tenure, was confused with a result of production affecting commodities. In non-agricultural industry the surplus of commodities is less obvious: it frequently does not exist. The surplus of values, however, does exist. Buildings and machines yield a rent as truly as lands. But

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this rent becomes conspicuous only when the buildings and machines are loaned. It is concealed so long as they remain in the hands of their owners. This distributive accident enabled the Physiocrats generally to shut their eyes to the fact that the *produit net*, considered as a surplus of values, results from non-agricultural, as well as from agricultural industry. But Turgot, at any rate, saw the difficulty (so far, at least, as concerns the rent of money) and he sought to meet it by calling interest a reward for abstaining from investment in land and for giving up the net product — surplus of values — to be secured thence.[1] Considering the *produit net*, therefore, as a surplus of values — and as such the Physiocrats regarded it when they thought it the sole source of taxation — they were able to conceive it as they did only because they lived under conditions where land generally, even universally, afforded a rent; and McCulloch's suggestion is not altogether shallow. This matter is now treated at such length, not because it is especially important in itself, but because it serves to bring out an important difference between the Physiocratic and the Ricardian views of rent — a difference which a reader of Mr. Higgs's book must keep firmly in mind.

After discussing the relation of Henry George and the single tax to the Physiocrats, Mr. Higgs says:

> It is in the main on principles like theirs that Mill proposed the taxation of the unearned increment of land, and that philosophers like Professor Sidgwick regard unearned increment of every kind as a preëminently suitable object of taxation.

The way in which this passage may intimate a persistence of Physiocratic influence depends on the meaning of "principles like theirs." As a matter of economic principle, the Physiocrats advocated the *impôt unique* because they believed that other taxes are shifted upon rent; Henry George advocates the single tax because he believes that other taxes are not so shifted. Mill and Sidgwick, too, propose taxes on unearned increments, not because taxation of the same economic effect is inevitable, but because the proposed taxes are expedient. It appears, however, that by "principles like theirs" Mr. Higgs means to indicate rather the notion of Mercier de la Rivière, eloquently ridiculed by Voltaire, that the sovereign is co-proprietor of the soil, and as such entitled to a share of the *produit net*. This principle appears to be political, not economic at all, whereas Mill and Sidgwick argue on the distinctly economic grounds.

[1] *Réflexions*, lxi (Daire's ed., I, 39).

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of what they believe to be distributive justice. If this be so, it is straining a point to find traces of Physiocratic influence in modern attempts to socialize the unearned increment. Similarly forced is the following passage:

> Fanciful as it may seem that they proposed to limit the royal power within the vague circle of what was "advantageous to the nation," or consonant with reason (*l'ordre naturel*), under pain of forfeiting all claim to obedience, such a limitation is not far removed in principle from the constitutional check of the supreme court on legislation in the United States (p. 142).

Surely the supreme court of the United States recks as little of *l'ordre naturel* as do the courts of England herself. Like them, it is a court of law, and the first paragraph of the Declaration of Independence is not law.

These, however, are but minor matters, the results of Mr. Higgs's enthusiasm for the ideas of the men concerning whom he writes. Taken all in all, his unpretentious book is marked by competent knowledge, care and a good sense of proportion. An exhaustive treatise upon the Physiocrats it does not profess to be; but it seems excellently adapted to the purpose for which it was originally prepared, and its permanent merits are abundantly sufficient to justify the author in offering it to a wider public. As a book, its flow is inevitably somewhat interrupted by the retention of the form originally given the separate lectures, but its style is simple, clear, and easy to read.

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Éléments d'économie politique pure. Par LÉON WALRAS. Troisième édition. Lausanne, F. Rouge, 1896. — pp. 495.

Études d'économie sociale. Théorie de la répartition de la richesse sociale. Par LÉON WALRAS. Lausanne, F. Rouge, 1896. — pp. 464.

When the first edition of Professor Walras's *Elements of Pure Political Economy* appeared in 1874 he was entirely ignorant of the fact that three years before almost the identical theory had been expounded by Jevons in England and Menger in Austria; and it was at a somewhat later date that he began to read his still earlier German predecessor, Hermann Gossen. That the scientific world has learned to appreciate the value and independence of Walras's work is shown by

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the fact that the third edition now appears. This edition differs from the second only in arrangement. The *Elements* now forms the first of a series of three volumes, of which the second is to be devoted to applied economics under the title of *Économie politique appliqué;* while the third, which has already appeared, bears the title of *Études d'économie sociale.*

In this third and definitive edition of the *Elements* the author has omitted the sections on money in its practical aspects, which are to be put in the second volume of the series; but he now adds three short appendices, one on the geometrical determination of price, another on the theory of Auspitz and Lieben, and a final note on Wicksteed's theory of rent. The main body of doctrine is so well known to students that it calls for no further comment in this place.

While the *Elements* forms a well-rounded whole, the *Studies in Social Economics* (which bears the sub-title *Theory of Distribution of Social Wealth*) is more fragmentary. It is not a new book, except in arrangement, for it is composed of chapters which have already seen the light in other books and periodicals. Part I, entitled *Recherche de l'idéal social*, contains a chapter on "Socialism and Liberalism," originally published in 1866–7, and several chapters on the general theory of society, which formed a course of lectures delivered in 1867–8. In Part II, on "Property," we find a chapter on the theory of private property, published in 1896, and two earlier chapters on intellectual property and the social question. Part III, entitled "Realization of the Social Ideal," contains a long chapter on the mathematical theory of the price of land and of its purchase by the state, as well as an account of Gossen. Part IV is devoted to taxation.

In all this work there is very little mathematics — in fact, none at all except in a portion of Part III. M. Walras has attempted to put his conclusions in a popular form. Perhaps he has tried to make the solution a little too simple. The outcome of his social theory he sums up in the words: "Liberty of the individual, authority of the state. Equality of conditions; inequality of positions" (p. 200). It is evident that this in itself affords but little assistance. If, however, we search for any positive doctrines, we find in Part II our old friend, the nationalization of land; for here M. Walras agrees with his father and with Henry George in making a distinction between "the price of the service of the land" and "the price of the service of personal faculties." But we search in vain for any new or strong arguments. Nevertheless, the question of principle

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seems so clear to M. Walras that he proceeds to prepare for practical politics by devoting a long and elaborate study to the working out of a plan for universal land purchase. In his theory of taxation, also, M. Walras virtually reproduces what he published several decades ago, without seeming to be aware that the science of finance has made some progress in the meantime. Thus, he again advances the rent-charge theory of the land tax, which is true only on the assumption that the tax is an exclusive tax. And when he discusses the principle of justice in taxation he takes for granted that contribution to the expense of public services must be in proportion to the degree in which the individual derives a benefit from the services.

On the whole, it is more than likely that the fame of the author will be based on his work in the pure theory of price, as it has been expounded to us for twenty-five years and as it is substantially contained in the present *Elements*. That work he has been among the first and most successful to develop; and now that he has retired to private life, after being in the harness for many decades he may rest assured that his work has not been in vain, and that even if he could point among his disciples only to the two Italians now filling the economic chairs at Geneva and Lausanne (Professors Pantaleoni and Pareto), his reputation would be safe and his influence abiding.

EDWIN R. A. SELIGMAN

Storia delle dottrine finanziarie in Italia. Col raffronto delle dottrine forestiere e delle istituzioni e condizioni di fatto. Seconda edizione, intieramente rifatta. Di GIUSEPPE RICCA-SALERNO. Palermo, Alberto Reber, 1896. — xvi, 550 pp.

The appearance, after fifteen years, of a second edition of Professor Ricca-Salerno's elaborate *History of Financial Theory in* would seem to indicate a more extensive interest in the subject of investigations than might, upon the surface, have appeared possible. But, in fact, the considerable reputation which the book has attained, together with the restriction necessarily imposed upon its sale by the circumstances of its publication (it formed part of the "proceedings" of a society), may well create an adequate demand for the revised edition now independently placed upon the market. Those students who already possess the first edition, however, will hesitate before purchasing the second. The process of revision has not materially changed the plan or scope of the work; and, save for additions, even its details are, for the most part, substantially un-

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The new matter of the second edition pertains in large part to he history of facts and institutions; and also, though to a proportionately less extent, to the history of theory. This unequal distribution of the additions constitutes a chief merit of the new edition, n that the theories are thus brought more closely into connection with the facts out of which, at least in part, they took their origin. The first book, especially, has been enlarged by the addition of a umber of pages which trace the actual development of mediæval xes, and especially of the general property tax. Throughout this dition the influence of Seligman's *Essays* is strongly apparent. ne same authority, together with Cunningham, has been the author's ief dependence for the new matter on the later development of glish and American taxes which he has introduced into his second ok.

The additions that have to do more directly with theory consist tly in the fuller treatment of a few of the authors already mened, and partly in the insertion of numerous paragraphs upon ers previously passed over. Such additions are most numerous e chapters on Venice and Piedmont and on the territories of the e. But it is in the treatment of financial theory in non-Italian ntries that the most conspicuous changes have been made. What previously one chapter on this subject has now grown into two. he first of them, chiefly devoted to England, Petty and Davenant, were not mentioned before, receive especially full treatment; e the second is given to the excise controversy in England and ermany. Following Leser, the author describes at some length discussions connected with Walpole's excise, but he does not it clear that the foreign writers mentioned exercised any notey influence upon Italian theory or practice.

e book is exhaustive — so exhaustive that the reader wonders er all the accounts of obscure writers are given at first — and also exhausting. Had the author kept the promise d by the caption of this last chapter — "Financial Theory in test Treatises on Political Economy" — and discussed living on the same scale that he has the dead, readers are few who have made their way through the resultant book. In fact, s in the middle of the century with Bianchini and Placido a. But, even at that, five hundred and fifty pages devoid of onstitute a burden which neither author nor publisher has any inflict upon the public.

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Corporation Finance. A Study of the Principles and Method of the Management of the Finances of Corporations in the United States, with special reference to the Valuation of Corporation Securities. By THOMAS L. GREENE. New York, G. P. Putnam Sons, 1897. — 180 pp.

In this small volume Mr. Greene has rendered a valuable service to every serious student of the economic aspects of corporate development, by formulating for concise presentation the principles which govern modern financial enterprise. His experience as a financial writer and as a corporate official has prepared him for a piece of work which, to say the least, he has done well. He has made no attempt to treat of the historical or the legal development of corporate finance, except so far as may be incidentally necessary for the main purpose of the subject. The eight chapters may be classified as having a general and a special bearing on corporate financiering. Of the former character are the chapters on "Bonds and Stocks," "Forms of Corporate Enterprise," "Corporation Accounting," "Public Policy toward Corporation Profits." These occupy a good deal less than half of the book. The other chapters are given up to an expert study of railway financiering in the United States during something less than the past twenty years.

In the general chapters the author starts from the point of view of borrowing money to extend the volume of trade and thus to make business profitable in spite of the continuous tendency of the rate of profits to fall. Borrowing having called into existence the surplus loan capital of the business world, a principle defining the relation of borrower and lender is wanting. As here stated, the practical test of safe borrowing and lending is to be found in the consensus of commercial opinion on the question: To what amount can commercial paper or bonds be floated at par and at about the ruling rate of interest for such borrowings? The bonds issued should not exceed in amount the minimum worth of the property, and the shares of stock (capitalized interests held by the members of the corporation) should fairly represent the capitalized value of the fluctuating gains remaining. In other words, the risks of utilizing trade forces should be localized with the managing investors, and the certain but limited returns should be guaranteed to those whose capital has made the volume of business large enough to make surplus profits possible. This differentiation of corporate securities, into bonds entitled to the highest certainty of returns and stocks as claims upon the variable

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surplus, accounts in a large measure for the extraordinary growth of the corporate form of investment under limited liability.

In view of the decided tendency toward repressive legislation of various kinds, it is held that the frankest publicity is the only sound policy of corporate conduct in the face of the popular temper which is gradually feeling its way toward a better understanding of the factors involved. There is a whole code of business ethics in the following quotation:

> The history of a company, its early losses and struggles, the price of the commodity when the business was begun compared with prices now, the cost of production per pound or gallon or barrel, showing the reduction, and in view of such facts the moderate profits of to-day — statements such as these will prove to be the best defense against drastic legislation before the bar of public opinion. But a company relying upon such a defense must be sure that its course as regards prices and policy is one which cannot be fairly attacked (p. 26).

The more special portion of the volume is taken up with railway financiering — railroad property as a field of investment and as a basis for borrowing capital. The treatment is more recent and less occupied with administrative aspects of the question than the one found in Hadley's *Railroad Transportation*. The chapter on "Railway Bonds" presents a concise analysis of our most important financial experience with railway securities during the last fifteen years. Under "Subsidiary Companies and their Securities" the method of interporate financiering is described as it grew out of the policy of constructing and absorbing branch lines into comprehensive systems. The guaranteeing of interest to the branch lines by the main lines, the practice of crediting branch-line deficits to "investments," assets," "loans," *etc.*, in the hope of developing the volume of business to set things right, are clearly described in their bearing on investment values. The chapter on the "Examination of Railway Reports" is one of the most lucid pieces of difficult exposition to be found in railway literature. The final chapter, on "Reorganizations and Receiverships," is the most timely feature of the book. The position of the stockholder upon whom the risk elements in the enterprise fall, of the bondholder whose claim is virtually upon the net income of a depreciated, mismanaged or overvalued property, and of the public to whom transportation has become a necessity — these interests are carefully worked out in the attempt to give the *rationale* of reorganization and to explain how the receivership came to have its peculiar development in American railway practice. In the author's

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opinion the receivership is likely to be extended to other departments of industry than transportation. If industrial competition continues to concentrate the production of necessaries in large corporations, so that in case of their failure there is no other source of supply, the most natural thing, Mr. Greene conceives, will be to resort, as in the similar case of railroads, to a judicial trusteeship pending reorganization; for thus might be conserved both the primary interests of the public and the apparently secondary interests of the investor. This is only a conditional tendency in corporate finance; but nevertheless, it is not to be lost sight of.

SMITH COLLEGE. JOHN FRANKLIN CROWELL.

La proprieta fondiaria a la questione sociale. Studi di ACHILLE LORIA. Verona, Fratelli Drucker, 1897. — 321 pp.

The books of the brilliant and eloquent Paduan professor follow each other with a rapidity that is astonishing to a foreigner. But when one has come under the spell of Professor Loria's language; when one has felt the charm of his sympathy with everything that is noble, and of his opposition to all that is mean and hypocritical; when one has followed with almost breathless interest the unfolding of his ideas from page to page and has laid down the book with a sigh of regret that it has come to an end — then his immense popularity is comprehensible; then it becomes clear that his is a master mind, with the power always to fascinate, even if not always able to convince.

The present volume is composed of four essays. Two of them — those on "The Law of Population and the Social System" and "The Land and the Social System" — are the inaugural lectures at the Universities of Siena and Padua, respectively. Published several years ago, they have long been out of print. The third essay, on "Charles Darwin and Political Economy," appeared originally in a scientific periodical in 1884. The fourth essay, on "Land Nationalization," is entirely new.

With the exception of the essay on Darwin, the whole book is devoted to a reiteration of Loria's views on land reform, which are now well known all over the Continent, and which will soon be made familiar to the English-reading public as well. The essay on Darwin is interesting as a strong plea for the inapplicability of the theory of natural selection to social life. But the chief interest in the volume consists in the passage in the last essay, where, after

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taking issue with the single-taxers, the land-nationalizers, and the socialists, Professor Loria for the first time sketches in clear outline his own plan for solving the social problem. It seems best to give this in his own words:

> For us the reform does not consist in perpetuating rent and profit in favor of the state, but in eliminating rent and profit in favor of the worker. We must not preserve the landed monopoly by transferring it from the individual to the government, but we must abolish it beyond all chance of resurrection. To accomplish this, all that is necessary is that each producer be enabled to occupy a tract of land sufficient to employ his labor force — that to each individual who is ready to produce there be accorded the right of establishing himself on his own account on a definite plot of the national territory. Thus there will be assured to every laborer the possibility of starting an occupation which will of itself free him from the necessity of offering his labor for hire, and which will enable him either to start an independent economy or to associate himself as co-worker and equal with the producer who has so started. In this way the re-constitution of free land will break down capitalist relations, will abolish both rent and profit and will effect the distribution of the total product among the producers in proportion to their respective contributions of labor [p. 316].

As to how such a result is to be brought about we are indeed not told. It is much to be feared that those who have not yet been convinced by the diagnosis of social unrest that is contained in his previous works will be left equally unconvinced by the projected remedy, as outlined in this work. Professor Loria is at great pains to differentiate his doctrine from socialism or any other "ism" whatever. But in reading his works we cannot help experiencing at times the same sense of unreality that affects us in the books of Karl Marx or Henry George. Here, as in his other works, it is not so much the construction as the critical exposition that arrests attention; and nowhere else does his own scheme come out so clearly as in the above quotation. But those who really wish to catch the spirit of the author must go to the work itself. Even if it is not an economic classic, it is certainly a literary masterpiece.

EDWIN R. A. SELIGMAN.

The History of Mankind. By Professor FRIEDRICH RATZEL. Translated by A. J. BUTLER. With introduction by E. B. TYLOR, F.R.S. Colored plates, maps and illustrations. Vol. I, The Macmillan Co., 1896. — 486 pp.

This outwardly attractive volume is the first translated installment of the second revised edition of Ratzel's *Völkerkunde*. Originally

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published in 1885–88 in three volumes, the work is now condensed into two. It appeared after the second volume of his *Anthropo-Geographie* in 1891, and is therefore enriched in several places by drafts upon that scholarly work. The changes from the first edition are considerable, but they are not always improvements. Thus, the newly added chapter (pp. 65–76) on "Science and Art" is transparently thin as regards science; and the art is already adequately treated elsewhere under the caption "Clothing and Ornament."

This work is not comparable with the *Anthropo-Geographie*. It contains nothing new: it is a compilation, although an able one; and bears witness in a marked degree to the prodigious industry of this prolific writer. The book is really a treatise upon ethnography. It is intended for a semi-popular account of the stages of culture attained by the various savage and barbarous peoples of the earth. Accordingly, it is almost entirely descriptive, falling into the same class with the anonymous volume on *Man* in the *Riverside Natural History*, or with Réclus's *Géographie universelle*. It is, however, better than either of these. By means of its fine illustrations it portrays the technical skill of primitive people in their pottery, fabrics, weapons and ornamentation; and may, therefore, be of use to the serious student, until he is prepared to take up original studies like those in Schmeltz's *Internationales Archiv für Ethnographie*. Rarely does the author pass beyond the descriptive stage. There is little comparative study, and almost no evidence of detailed research. In a few places, as in the excellent map of the distribution of certain arts and customs in the Pacific, some really good work is evident; but there is everywhere a lamentable deficiency in the line of physical anthropology. This, as has already been pointed out in reviewing his other book (POLITICAL SCIENCE QUARTERLY, IX, 321), is perhaps the most serious defect in all of Ratzel's geographical work; for it invalidates many of his conclusions.

The volume before us really consists of two distinct parts, parallel perhaps, but not bound together in any sense: in other words, illustrations and text are entirely independent of one another. The illustrative material is copious and exceedingly good, forming the most permanently valuable portion of the book. To have made such a collection is in itself a distinct service to science, for it is an incentive to comparative study. At times, however, the pictorial zeal outruns all bounds of tolerance — as in the fancifully colored "Family Party of the Australians." This is more the pity; since, as thus flaunted forth, these serve at once to prejudice the

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discriminating reader. Such devices have in the past done more than almost anything else to bring the science of man into disrepute. On the other hand, the lithographic colored plates of ethnographic collections are worthy of all praise. With their index sheets of outlines they comply with the most rigid demands of the self-respecting reader; and they may be of great value to those students to whom access to the grand collections of Europe has been denied.

Several serious defects in this volume cannot be passed over in silence — defects due to the translator and publishers alike. Thus, there is no excuse whatever for the English title given to the book, for it in nowise corresponds to the very proper German title of *Volkerkunde*. It is mere bait for the vulgar reader and is derogatory to the learned and distinguished author. This work is no more a "history of mankind" than Tylor's *Anthropology* or Keane's recent *Ethnology* are really treatises upon the subjects implied in their respective titles. All quibbles about nomenclature aside, it will be generally acknowledged that this work covers but a single chapter in the history of mankind; for there is no word in it about prehistoric archæology, somatology, linguistics or any of those other departments which at Paris, for example, are represented in the *École d'Anthropologie*. It is a work on ethnography or ethno-geography, exclusive of the peoples of Europe. If the material had been sufficiently digested, if it had become concisely comparative instead of descriptive, if its details had been crystallized into well-ordered generalizations or laws, if physical man had been made co-equal with cultural man as a means of ethnic classification — then it might have been advanced to the dignity of a work upon ethnology. Or if every detail of man's existence — his physical origin, his relative variations, his arts, his religions, his social and political institutions — had been included, then this might indeed have been a work worthy of the title anthropology. But to overload this treatise on ethnography with the heading "History of Mankind" is absurd.

The translator is sometimes at fault in using a slovenly English style. Even supposing the author to be partly to blame, — and Ratzel's German is not always simple, — what excuse can be offered for this kind of work:

> The population of Africa has undoubted affinities with that of Asia, but shows no trace of any relations with America. But this connection extends farther, beyond the limits of the mainland of Asia to the great Asiatic islands; it forms a great region of civilization between the northern and southern borders, which may be regarded as the western counterpart of

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that more easterly region extending across the Pacific into America. The great mark of distinction between the two portions lies in the use or non-use of iron. In the north, indeed, the western region encroaches upon the eastern; but the contrast between north and south, ever increasing, remains persistent past the point where it crosses the boundary between east and west.

The use of the word lady (p. 118) is oftentimes rather out of taste. And what excuse is there nowadays for retrograding from the metric system, employed by Ratzel, to feet and inches? Most of all it is to be hoped that future translators will not render kilogram as "stone" — a process which in one case leaves an American uncertain whether the average weight of a people was 96 pounds (meat) or 168 pounds (by law).

WILLIAM Z. RIPLEY.

COLUMBIA UNIVERSITY.

Tratado de derecho administrativo segun las teorias filosoficas y la legislacion positiva. By ADOLFO POSADA, Professor of Political and Administrative Law in the University of Oviedo. Vol. I. Madrid, Victorino Suarez, 1897. — xxiii, 514 pp.

In this work Professor Posada has attempted to give a description of the administrative institutions and law of Spain as compared with those of the other important countries of the world, and at the same time to examine the general subject of administration and administrative law from the purely scientific and theoretical point of view. He is acquainted with, and has made use of, almost all the more recent general treatises on this subject; and his book contains a most excellent bibliography of the general subject of administration. It is on this account, if on no other, an extremely valuable piece of work — one that students of administration can by no means afford to pass over without examination.

His work is, however, valuable also because of the conclusions which he reaches with regard to the general position of the subject of administration. Heretofore most writers on this subject have regarded administration, when treating it from the purely theoretical point of view, as practically a part of the executive power. Professor Posada protests very strongly against this treatment of the subject, and believes that administration is to be found among the attributes of the judicial and the legislative powers as well as of the executive power. He defines administration as that function of the state which attempts to procure, preserve and develop the organization —

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that is, the different institutions — by means of which the state realizes its ends. A large part of the earlier portion of the book is devoted to the defense of this thesis. Its importance, according to Professor Posada, consists in the fact that if administration is confounded with the executive power, the administration is apt to be sacrificed to politics, which of necessity must exercise an important influence over the actions of the executive authority. Professor Posada believes that, if we could once incorporate into our law and political opinion the conception that administration is not in theory a part of the executive power, but has to do with the more technical part of government, government would be much more efficiently conducted, and it would be easier to divorce politics from the purely administrative work of the government. As he says: "Administration, strictly speaking, as a science and as an art, has a technical character which demands from the administrator a special preparation and a special aptitude" (p. 65).

Without a doubt, this is a valuable contribution to the science of administration — a contribution whose value in this country can hardly be over-estimated. Our entire administrative history is evidence of a struggle to separate politics from administration. In our early history the attempt was made in the state government to make the various branches of administration practically independent of the chief executive, so that for a time the chief executive had very few administrative powers; and at the present time this is largely true of our state governments. This change in our system of government did not have as good results as were expected, not because the theory was false, but because there was practically no administrative head to the government after the chief executive, the governor, had been deprived of administrative powers. In our national government, on the other hand, where the constitution does not permit of such a change, the same attempt has been made through the civil-service reform movement. This attempt has been more successful, because the power of the president as head of the administration has not been undermined, and because the reform has had in view merely the separation of politics from administration and the formation of a permanent force for the discharge of the latter functions. It is believed that Professor Posada has stated a distinction which is of the utmost value and which no writer on administration should fail to emphasize.

F. J. GOODNOW.

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Journal of the Society of Comparative Legislation. Vol. I, No. 1, August, 1896; No. 2, March, 1897. Printed for the Society by Rivington, Percival & Co., London. — 8vo, xxxii, 422 pp.

Jahrbuch der Internationalen Vereinigung für vergleichende Rechtswissenschaft und Volkswirthschaftslehre zu Berlin. I. Jahrgang, 1. & 2. Abtheilung, 1895; II. Jahrgang, 1896. Berlin, Hermann Bahr's Buchhandlung (K. Hoffmann), 1895–97. — 8vo, 652, 716 pp.

Questions concerning the Law Customs of the African Natives. Submitted by the International Association for Comparative Jurisprudence and Political Economy of Berlin. [No imprint or date.] — Folio, 8 pp.

Der Staatsbankerott und die moderne Rechtswissenschaft. Vortrag gehalten in der Internationalen Vereinigung für vergleichende Rechtswissenschaft und Volkswirthschaftslehre zu Berlin. Von Dr. Fr. Meili, ord. Professor an der Universität Zürich. Berlin, Puttkammer & Mühlbrecht, 1895. — 8vo, iv, 82 pp.

In 1894 steps were taken, first in Berlin, later in London, for the organization of societies of comparative jurisprudence. In both cases the efforts were successful. By 1897 the London Society of Comparative Legislation had obtained nearly two hundred members, and the International Association for Comparative Jurisprudence and Political Economy of Berlin nearly six hundred. Each body has now published one or more substantial volumes; and from these the character of the work likely to be accomplished by each may be fairly estimated. It is of interest to compare the aims and work of each of these new associations, not only with the other but with the older French Society of Comparative Legislation, and to see how far these three organizations are doing the same work and how far they are tending to differentiate from and supplement one another.

The field of comparative jurisprudence is broad enough for a dozen such societies to labor side by side without interference. The comparative method may be applied to the study of legal history, transforming that branch of legal science into a study of the evolution of all human law. So far nearly all the work along this line, whether associated with ethnology or with jurisprudence, has been confined to early law — to that period which the Germans call *Volksrecht*. The excellent Austrian *Zeitschrift für vergleichende Rechtswissenschaft* is chiefly devoted to this period. Little has been

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done for the following period — that period which Maine designates as "fiction" and which the Germans, in apter phrase, call *Juristenrecht.* For the next period, that of "equity" or *Amtsrecht*, when government, in the form of prætor, king or chancellor, overrides established law with commands and prohibitions based on administrative power, comparative work is almost entirely wanting. It is only when we reach the period of "legislation" that we again find the comparative method actively employed.

In the comparative study of legal history there is opportunity for further differentiation. Special stress may be laid upon public law or upon private law. One special branch of property law, the law merchant, has already proved peculiarly attractive to students of the historical-comparative school by reason of its cosmopolitan development. International law, of course, cannot be studied from any other than a cosmopolitan point of view.

In the comparative study of law in its latest developments — in the study of comparative legislation — differentiation is possible by subjects, as indicated above, or as a result of the different aims with which the study is prosecuted. Modern laws may be regarded as links in that chain of development whose beginnings have faded from the memory of our race and whose end we cannot foresee; and the investigator may concern himself mainly with the causes and effects of legal change. Again, the point of view may be less sociological and more juristic, and the effort may be to ascertain how far the rules established by modern legislation modify the traditional theories of legal dogmatics. Again, the point of view may be less scientific and more practical. Before university professors or learned societies occupied themselves with the comparison of laws, and long before the term comparative legislation was coined, men who had laws to make studied the laws existing among divers peoples. Something of the sort was going on two centuries before Christ, when the edict of the Foreign Prætor took shape at Rome; something of the sort has been going on in our own time in the British Empire, with its analogous variety of local and racial customs and laws. In modern Europe important legislation is regularly preceded by a ministerial or parliamentary investigation of the laws made in other countries *in simili casu.* The reports of English parliamentary commissions are often valuable studies in comparative legislation; and the "Motives" which accompanied the first draft of the German civil code constitute one of the most important modern contributions to comparative jurisprudence.

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From the outset the aims and the labors of the French society have been practical: working in touch with and aided by the French government, it publishes, in French, the most important foreign laws of each year. It publishes also a smaller *Annuaire* of French legislation. It is publishing a series of French translations of foreign codes. At its monthly meetings papers are read which are sometimes mere notices of legislative action in this or that country, sometimes elaborate studies in the comparative law of special subjects. These papers are printed in the *Bulletins* of the society. The *Annuaires* and the *Bulletins* have long been indispensable to the student of comparative legislation.

The English society is attempting a more intensive cultivation of the field of English legislation. This field is certainly wide enough for its energies. As was pointed out in its prospectus, in 1895, the English race and the races living under English rule have about one hundred and ten legislatures — sixty in the British Empire and fifty in the United States. The acts of these legislatures need not be translated, for they are nearly all promulgated in English. (It appears that the laws of Jersey are published in French only.) They need not be republished, for they are all obtainable, with more or less trouble. What is needed is something in the nature of a guide to the various channels of this enormous stream of legislation. Such a guide the *Journal* of the society aims to supply. In its first number, that of August, 1896, it gives a review of the legislation of the British Empire in 1895. This review covers, in 133 pages, the work of no less than fifty legislatures. It represents the coöperation of ten editors and correspondents. Such an achievement in the first number of the *Journal* implies a thoroughness of preliminary organization which inspires confidence in the future work of the society. The "notes" on American legislation in the same number are readable, but thin. They are based on Dewey's *Bulletin of Legislation.* Perhaps they may be taken as a hint that we Americans should do for ourselves what the London society is doing for the British Empire.

Another evidence of careful preparation is furnished by the articles in the first and second numbers on "Modes of Legislation in the British Colonies." This is the beginning of an elaborate inquest not merely into modes of legislation, but into the existing law of all the colonies. A carefully framed series of questions has been drafted by the officers of the society and has been transmitted by Mr. Chamberlain, secretary of state for the colonies, to the respec-

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tive colonial governments. It is inquired, among other things, what is the existing common law of each colony; whether special law exists for particular races or creeds; in what form the statutory law is published; and what steps, if any, have been taken towards revision of statutes or toward codification. Answers from eighteen colonies have thus far been published. These are interesting reading; and the full set of answers will be most valuable. Articles throwing light on the same general question, namely, the existing law of the British Empire, are contributed to the first number by Sir Courtenay Ilbert and Mr. L. B. Clarence, who write on the application of European law to the natives of India and of Ceylon.

Another inquest into "Methods of Legal Remuneration in Contentious Matters" has been set on foot by Mr. John Macdonell, and the results are given in an article of 137 pages in the second number. Inquiries were addressed to, and answers received from, competent authorities, not merely in the British colonies and in five representative commonwealths of the United States, but in ten of the leading countries of Continental Europe.

Other special articles deal with the new German civil code and with the recent controversy in Egypt concerning the payment of the expenses of the Dongola expedition. Under a strict construction of the term "comparative legislation," it would be difficult to defend the admission of either of these articles. Under a broader construction, any information regarding foreign law or foreign judicial decisions may be welcomed as "material."

"Comparative jurisprudence and political economy" is a broader title, and in assuming it the Berlin association stakes out a broader field than that which either the French or the English society attempts to occupy. Even this broad title, however, fails to justify the insertion of several articles published in the first *Year-Book*, because the element of comparison is wanting. Were we to judge the enterprise by this volume alone, it might be queried whether any useful purpose was subserved, in a country so abundantly supplied with technical periodicals, by collecting in a new journal articles that might as well be published in the existing journals devoted to law or to economics. In the second number of the first volume, however, there is a marked improvement, not in the leading articles indeed, but in the addresses (*Vorträge*) delivered before the association. These are really comparative. In the second *Year-Book* there is even more improvement. All the leading articles save one are comparative. In both volumes the articles, with few exceptions,

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are of real value to the student of jurisprudence. In the introductory article by Professor Bernhöft, the association takes formal possession of the entire field of comparative jurisprudence, but announces that more attention will be paid to modern problems than to legal history. The article further emphasizes the intimate connection between law, ethics and economics; and declares that on this triple basis only can we properly estimate the trend of things in the present period of social restlessness and conflict. In the field of legal history the most noteworthy contributions are Professor Wesnitsch's article on "The Collective Liability of the Village for Crime in Ancient and Modern Servian Law" (vol. i, p. 14), in which it is shown that the individualistic rules which obtain in Western Europe are inapplicable to Servian conditions; and Professor Jolly's article on the ceremonies attending the attainment of puberty in India, which he compares with those practiced by other Indo-European peoples (vol. ii, p. 575). Excellent studies in comparative law and economics are contributed by Dr. Hirsch, who writes on the trades-union[illegible] Great Britain and of Germany (vol. i, p. 513); by Professor Foinitzky, who discusses the Russian draft criminal code from the comparative point of view (vol. i, p. 588); by Dr. Burchard, who treats of the modern law of salvage; by Dr. Heilborn, who discusses jurisdiction over merchant-ships in foreign waters and pleads for the subsidiary application of the law of the flag (vol. ii, p. 1); and by Professor Lehmann, who examines the English, Dutch and German laws respecting colonial companies, criticising the German legislation (vol. ii, p. 20). Suggestive articles concerning the exchange of governmental publications are contributed by Professor Meili (vol. i, p. 25), whose manuscript should have been edited into one-third of its bulk, and by Dr. Maas (vol. ii, p. 122). Of particular interest to Americans is Dr. Kaufmann's temperate and judicial article on "The Bering Sea Fisheries controversy and the Paris Arbitration of 1893" (vol. i, p. 459). Dr. Kaufmann thinks that the decision of the tribunal was justified by existing international law, but that the American contention represents the law of the future.

Like the English society, the German association is making no attempt to duplicate the work of the French society in collecting and publishing texts. Like the English society, it confines itself to sketching the progress of legislation in various countries. Unlike the English society, it aims to follow the movement of legislation everywhere, and to include the development of legal literature. In the first volume this department was quite inadequate. In the

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second there is a great improvement. Reports are published from twenty-eight countries, and the review fills 424 pages. Particularly good relations appear to have been established with the Slavic states of southeastern Europe, and the *Year-books* promise to give far more information regarding Slavic law than is elsewhere easily obtainable.

Another department which is most inadequately represented is that of judicial decision. A few interesting cases are reported in each volume. They are, for the most part, cases of conflict of laws. It seems hardly worth while, however, for the editors to make any especial effort to strengthen this department, which is already covered by the admirable *Journal de droit international privé.*

Like the English society, again, the German association has started an inquest, but in a very different field. A committee has been created to investigate the legal customs of the natives of Africa, and a list of questions covering eight folio pages has been printed in German and in English. The questions are well chosen, and are so framed as to make clear, even to persons unfamiliar with ethnological investigations, the precise points on which information is desired. These papers are to be sent to colonial officials, missionaries, traders and explorers, and the results secured should be valuable.

It should be noted, finally, that by the assistance of the German Imperial Foreign Office and of the German Colonial Society, the Berlin association is enabled to offer a prize of 1600 marks for the best treatise on "the principles which have been observed in the colonies of the most important states regarding acquisition and settlement of land, and the economic result of the same." Manuscripts may be written in French, German or English, and must be sent in before April 1, 1898. For the further conditions of the competition see the *Jahrbuch*, vol. ii, p. 714 *et seq.*

Not all the addresses delivered before the Berlin association find their way into the *Year-Book*. Professor Meili's treatise on *State Bankruptcy* comes to us as a separate publication. The pamphlet deals with the relation of foreign creditors to states which borrow and fail to repay. There is here, the author insists, a perfect legal right against the defaulting state — only it cannot be enforced. (Professor Meili's conception of a legal right, it will be observed, is not that of the Positivists.) In earlier theory, the creditor's state was entitled to enforce this right against individual members of the defaulting state, by seizure of their property or attachment of their claims. This course was justified, at first, on the theory that every

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subject of a state, by reason of his allegiance, was subsidiarily responsible for all the acts and defaults of his state (Grotius); later, on the theory of legitimate reprisal (Puffendorf). In modern times the theory that property rights are human, not civil, rights has caused these remedies to fall into desuetude. There remains nothing but state action in behalf of creditors against the defaulting state itself, by seizure and administration of its territory and revenues; and this remedy is actually resorted to only as against weak and half-civilized communities. Meili argues for an international court which shall be empowered to investigate the claims of creditors and the resources of defaulting states, and to decree, in any needful case, such measures as the great European states have taken in the case of Egypt. That such a court can at present be established he does not assert; but he thinks that the way may be paved for its eventual establishment by special arbitration conventions. From every state that borrows, the lenders should exact a pledge that in case of default, the state will submit to the decrees of a tribunal of arbitration. How the decrees of the arbiters are to be enforced he thinks it needless to discuss, since no instance has yet occurred in which a state has consented to arbitration and has then refused to abide by the decision.

It is evident that both of the new societies whose work we have been examining deserve support from all who are interested in comparative jurisprudence. Their publications will be indispensable to the student, and should find a place in every important university library and law library in the United States. In the list of members of the English society there seem to be, at present, but two American universities — Columbia and Michigan. Applications for membership in the English society may be addressed to Albert Gray, Esq., 2 Paper Buildings, Temple, London, E.C. Applications for membership in the Berlin society may be sent to Dr. F. Meyer, W. Lützow Ufer, 32. The annual subscription to the English society is a guinea; to the German association, twelve marks.

MUNROE SMITH.

The English Constitution. A Commentary on its Nature and Growth. By JESSE MACY, M. A., Professor of Political Science in Iowa College. New York, The Macmillan Co., 1897. — 534 pp.

This book consists of two parts. The first contains an exposition, compressed within the limits of one hundred pages, of the English constitution as it is at present. The second part is a commentary

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on the historical development of that constitution from the Norman conquest to the present time. Viewed as a whole, the work lies within the domain of political science and constitutional law more truly than in that of history. The object of the author has been to expound the modern English constitution and to explain historically its origin. Therefore, to speak after the manner of the clergy, the text is to be found in the first part and the illustrative commentary in the second part. The volume, then, is in conception and execution a unit, and the history contained in it is written with a purpose — with the view of showing a distinct outcome and conclusion. The author has kept the end of his journey in sight from its beginning. Material has been selected and arranged, and the emphasis laid upon it with a view to illustration and exposition.

The book is, moreover, the outcome of class-room work and has a distinct pedagogical purpose. The author designs it to aid American students to a clear understanding of the English constitution. Two cardinal facts in American constitutional development have been the existence of the formal written document and the separation of powers. Hence Professor Macy has made prominent the opposite characteristics in the English system — the concentration of powers and the substitution to a large extent of custom or understanding for the written constitution. This comparison, more implied than expressed, is wrought into the substance of the book, and to a considerable extent determines its character.

Finally, the author lays no claim to the merit of original research. He has simply used with diligence and judgment the material contained in the standard secondary authorities. In his pages their views are reflected, but in such a way as to show that in the author's mind they have been carefully sifted and analyzed, and that from them he has drawn his own independent conclusions. In the expository part of the volume Professor Macy fully acknowledges his indebtedness to Bagehot. The spirit of Bagehot's realism, his keen search for the substance which lies beneath and behind the form, is caught and reproduced in many passages. But Dicey, May and the other standard writers, both on the law and the history of the constitution, have been used with care. It would seem that in the historical part of his book Professor Macy is as much indebted to material and suggestions contained in May's chapter on the influence of the crown as in the expository part he is indebted to Bagehot and Dicey.

As the history contained in this book is of special interest to the reviewer, he may be excused for dwelling particularly upon it. The

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originality and intrinsic merit of the view of English constitutional development presented in the volume will also justify this course. Though Professor Macy devotes himself chiefly to the task of showing how the democratic elements in the society and constitution of England have developed, one of his excellencies is that he does not attribute too great antiquity to this phenomenon. He is inclined throughout to emphasize the prominence of the crown in the constitution. He realizes that prior to the Tudor reigns Parliament, and especially the House of Commons, occupied a precarious position, and, had it seriously opposed royal policy, might have been abolished. In those ages, as *Magna Carta* shows, the king could be effectively coerced only by war, and not by political action. Professor Macy's view of English history hinges more perhaps than that of any other writer on the Tudor period. The central thought of the historical part of his book may apparently be found in the following passage.

> The Tudor rulers had championed the unrepresented English people as against privileged classes, and in so doing they had nursed into life a representative assembly capable of competing on equal terms for the support of the nation. From the political contention thus joined has been developed the modern constitution (p. 245).

His treatment of English history, particularly since the Revolution of 1689, is an elaboration of the idea contained in the last of these sentences. On its practical side, says he (p. 320), the ideal of the Tudors and the Stuarts was a unified system wherein legislation was an incident of government, and harmony was secured by committing legislative business to the control of administrative officers. He implies that if Parliament in its conflict with the Stuarts had fully triumphed, it, as distinct from the crown, must have assumed control, and some sort of a formal constitution providing for a separation of powers must have resulted (p. 319). But, instead, by the gradual development of the cabinet the characteristics of the Tudor system of government have been preserved, only that the voting constituency has taken the place of the monarch as the center of control. This has made it possible "for the individual and absolute form of government perfected by the Tudors to be transmuted into a modern, absolute democratic cabinet." Thus the ideals both of the crown and of the hostile House of Commons have in a sense been realized; but in order to secure this both king and Parliament have been compelled to forego personal preferences and "to make of themselves deliberate and conscious agencies for carrying into effect the will of the nation."

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The chief merit of the book lies in the forcible manner in which its author has traced the history of this change as it was wrought out during the century between Walpole's administration and the first Reform Bill. The treatment of George III is particularly successful. By omitting details and ignoring irrelevant subjects, Professor Macy has thrown into strong relief the commanding power and position of the king. He was able to appoint, control and remove ministries, because he could always secure a majority in the Commons and because the cabinets were not units. The first ministry that was able to stand together and assert its policy was that of Earl Grey, and it did so because it was backed by the imperious demand, especially of the unrepresented part of the nation, for Parliamentary reform. At this crisis the king lost his power of appointing and removing ministers at his will and of dictating their policy, while the ministry itself became a unit under the headship of the premier. At the same time the House of Lords lost its position of equality with the Commons, and the latter definitely assumed the leadership as the mouthpiece of democracy within the nation. By this process the power of the Tudor monarch — that power which George III had come so near recovering — passed to the cabinet, and under its leadership Parliament again found its strength — and that in enhanced degree. Though the material in the book is not in all respects well arranged, Professor Macy has made a contribution to the literature of his subject which should commend itself to thoughtful students on both sides of the Atlantic.

H. L. OSGOOD.

Southern Statesmen of the Old Régime: Washington, Jefferson, Randolph, Calhoun, Stephens, Toombs and Jefferson Davis. By WILLIAM TRENT, M.A. New York, Thomas Y. Crowell & Co., 1897. — xv, 293 pp.

The writer of this attractive series of lectures is a Southerner "who cannot recollect ever seeing a slave, and who has never believed in the doctrine of state rights *per se*." He is one of the younger men of the South who as authors and scholars are bringing to their section a new fame and a more worthy name than that begotten in the old *régime* by the contributors to that "farrago of pathetic nonsense known as pro-slavery literature." The lectures included in this volume were delivered at Madison, Wisconsin, before an audience of students and townsmen; they are popular in form and character, without lacking dignity, accuracy, or literary finish. Their

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main purpose is to sketch the lives of leading Southern statesmen before the war and to give them their proper place in our history.

The task was well worth undertaking, and for its successful accomplishment Professor Trent is in some respects peculiarly fitted. He is known as a writer of grace and vigor, having first distinguished himself by his charming book on William Gilmore Simms, the literary lion of the old *régime*. He is unusually free from cant or prejudice; his mind seems as simple and clear as the style in which he writes; and he approaches his subject with rare candor and open-mindedness. One feels constantly, as he reads, that the writer is absolutely without petty fear of Southern opinion, and quite as free from a desire to propitiate Northern sentiment. He looks at all the matters under discussion directly, and sees them face to face. As a result, we have a calm, rational account of men, some of whom have been worshiped at the South and execrated at the North: the judgments of the book are, therefore, valuable to the student of history who is desirous of reaching sensible conclusions. It may be said, too, that the book appeals to one as an indication — in itself an historical fact of no mean value — that the day has come when sober-minded men of the new South can look upon the *ante-bellum* heroes as less than demi-gods.

For the general reader or listener the lectures are well suited, and are likely to stimulate to further reading and investigation. The special student, on the other hand, regrets that Professor Trent did not seek to accomplish something more than the characterization of seven statesmen of the old South. The book would have been more valuable had he sought at all times to interpret these men as exponents of Southern thought and ideas, or had he shown us what qualities in each were the essential results of environment, the natural products of a peculiar civilization. Perhaps this is assigning him, after the fact, an impossible task; but it must be said that no one is better fitted to do it. In the lectures on Randolph, Stephens, Toombs and Davis he has in part accomplished this very thing, and these lectures are the most valuable and suggestive portions of the book.

The lecture on Washington is one more attempt, of which there have been several within a twelvemonth, to rescue the father of his country from the quicksands of mythology, under the belief that a man tempted like as we are is a more potent figure in the life of a nation than a being of whom men speak with bated breath, and whose noble example is shrouded by the halo that surrounds him.

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That a strong, sober, energetic man of action like Washington should stand out before the public mind as either divine or priggish is indeed to be lamented; but it is doubtful if Professor Trent has succeeded in humanizing, although he may have masculated his subject. Like Mr. Ford, who flatly tells us that Washington could veer from the simple line of truth, and ends his book by asserting that he admires the real George Washington more than ever before; or like Woodrow Wilson, who begins his volume with a picture of an actual young Virginian with human passions and earthly impulses, and ends with a portrait of a saintly old man, of whom he speaks in charmed words with a far-away and mystical rhythm — so Professor Trent begins with the sturdy purpose of cool criticism, but soon falls under the spell of his own spirit of reverence and does its bidding. Probably the real George Washington is now less real than the ideal: the traditional George Washington has become a reality.

Jefferson, to whom the second lecture is devoted, needs to be rescued from his friends almost as much as Washington. His name is bandied about by political orators, who cover him, almost beyond recognition, with the foolish blandishments of rhetoric. On the other hand, federalistic historians have wholly failed to appreciate his genius. As a consequence the real Jefferson is little known. Professor Trent has done something in a brief lecture to show us the founder of the democratic party in proper light and perspective.

In some respects the chapter on Calhoun is the least satisfactory, although the subject is treated with great fairness and with a certain breadth and freedom. Nowhere can be found a better portrayal of the typical planter of the old *régime*, for whose necessities Calhoun invented his intricate dialectic subtleties:

> All he wanted was to be let alone; but if he were not let alone, he would peaceably withdraw from a partnership made for him by his ancestors, when times were better than now; if any one tried to stop him he would fight.

But when the author treats of Calhoun's constitutional theories he seems at times to go astray and to fail to appreciate the fundamental doctrine of the great leader. He warns the reader of Calhoun's works that it

> is not safe to approach these books unless he has thoroughly disabused his mind of the notion that sovereignty can be divided and a government founded on compact. If one starts with these notions in one's head, the sure grip of Calhoun's logic will end by making one a nullifier or a lunatic, it matters little which (p. 191).

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One might well wonder how the person innocent of the lore of political philosophy could better prepare himself to be gripped by the logic of the honest nullifier than by following Professor Trent's advice; for surely the cunning argumentative snares are set in vain for the man who believes that sovereignty is divisible and a government can be based on agreement. In fact, he who believes that Calhoun's philosophical principles were sound and agrees with him in considering sovereignty a unit needs warning; for he can escape nullification or the madhouse only by seeing that the great Southern logician made false historical assumptions and could quote the scriptures of history to his purpose.

Of the seven statesmen whose lives are sketched in this volume, the first two belong to the nation; Jefferson was scarcely less of an American than Washington, and the two were in large measure free from the limitations of a narrow environment. The other five, Randolph, Calhoun, Toombs, Stephens and Davis are typical Southerners, whose manners and ideas illustrate the course of Southern history and the development of the pro-slavery spirit. Professor Trent has written an interesting and helpful book; but perhaps it is not too much to hope that he will sometime give us a more complete study of slavery as it showed itself in politics and statesmanship.

UNIVERSITY OF MICHIGAN. ANDREW C. MCLAUGHLIN.

Nicaragua: War of the Filibusters. By Judge DANIEL B. LUCAS, late President of the Supreme Court of Appeals of West Virginia, with introductory chapter by Hon. LEWIS BAKER, United States Minister to Central America; *The Nicaragua Canal,* by Hon. W. A. MCCORKLE, Governor of West Virginia; *The Monroe Doctrine,* by J. FAIRFAX MCLAUGHLIN, LL.D. Richmond, Va., B. F. Johnson Publishing Company, 1896. — 216 pp.

Such is the titlepage of a volume the various contents of which relate chiefly to Nicaragua. The part contributed by Judge Lucas, which forms about half of the book, possesses a certain historical interest, though it can scarcely be said to add anything to our knowledge of its subject — the filibustering expeditions of William Walker. Perhaps a better commentary could not be written on Walker, whom Judge Lucas calls "this Central American John Brown," than that which is furnished by Mr. Baker's introduction. On the 1st of May, 1896, Mr. Baker was awakened at San José, Costa Rica, by the firing of cannon and the noise of a brass band.

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He subsequently learned that the demonstration was intended to celebrate the capture on that day, thirty-eight years before, of "el filibustéro Yankee William Walker." A man whose career was such that the people of Costa Rica have for nearly forty years continued to celebrate the anniversary of his capture and execution should scarcely need to be called "John Brown" in order to render him odious. The designation does not, however, appear to have been employed for precisely that purpose, but, rather, for the purpose of suggesting that both Brown and Walker are to be ascribed to the same cause, the one directly and the other indirectly. Brown was the product of "Abolitionism," and "Abolitionism," we are told, bred the "Slave Propaganda"; hence Walker, as a slave propagandist, was also the product of "Abolitionism." This course of reasoning, however, seems to be unnecessary to an explanation of Walker's career. He was of a restless disposition, fond of adventure and of notoriety, and reckless as to the means of gratifying his inclinations. That he believed himself to possess the sympathy of some persons of influence is not strange; but his lawless career produced, not only in Central America, but in all Spanish America, a feeling of distrust toward the United States, the traces of which appeared in many subsequent transactions. Nor were the ill effects of his course confined to the relations of the United States with Spanish America.

The chapter on the Nicaragua Canal, by Governor McCorkle, is, as he states, based on information "derived from general and official sources"; and he expresses his especial indebtedness to several persons, the first of whom is ex-Senator Warner Miller, president of the Nicaragua Canal Construction Company. The work advocates the construction of the canal with the assistance of the United States and the maintenance of its control by our government.

Dr. McLaughlin's discussion of the Monroe doctrine is brief, and is chiefly devoted to the Venezuelan question as it stood immediately after President Cleveland's special message of December, 1895, on the subject. The author's view of the message is expressed in the remark: "Certain individuals who haunt the stock markets have expressed dissent."

J. B. MOORE.

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BOOK NOTES.

THE latest additions to Professor Charles Letourneau's long list of volumes upon different aspects of human progress are two bulky works entitled *La guerre dans les diverses races humaines* and *L'évolution de l'esclavage dans les diverses races humaines* (Paris, Vigot Frères, 1896, 1897). Like the volumes on political, juridical and moral evolution, these works recount the usages of savage hordes, barbaric tribes and half-civilized peoples in a painstakingly methodical way; and then, in like manner, survey the development of more highly organized nations. It is cheering to find that Professor Letourneau, after his extensive examination of warfare in all parts of the world and in all centuries, is able to discover some ground for hope that war is really decreasing in the world. He lays much stress upon the rapid growth of a strong feeling against war as a means of settling international disputes, and expects that, in course of time, public opinion will become strong enough to be really influential in a large number of cases of threatened war. The concluding chapter of the volume on slavery discusses the past, present and future of labor. This chapter will naturally be compared with the concluding chapters of the third volume of Mr. Spencer's *Principles of Sociology*, in which the same topics are discussed. While Mr. Spencer's individualism is as stalwart to-day as it was when he began his sociological writings half a century ago, M. Letourneau has strong sympathies with many phases of communistic and socialistic aspiration. He believes that the time will come when the wages system will disappear and when the more dangerous and deadly kinds of work will be done by mechanical means. He expects that the actual aims of socialism and communism will in a large measure be realized, probably through a greater degree of social control over industry than is exercised at present, but probably not as a result of any of the revolutionary measures that socialists have advocated. The change will come about through evolution, and the wisest cannot now see just how the details will be worked out.

Some of the most careful and suggestive studies of social conditions in East London in recent years have come from the pen of Miss Helen Dendy. Miss Dendy, now Mrs. Bernard Bosanquet, has lately offered a somewhat longer and more consecutive account

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of these conditions in a volume entitled *Rich and Poor* (London, The Macmillan Co., 1896). This work is divided into two parts, the first descriptive, the second consisting of suggestions for workers. In the first part are brief but accurate accounts of the parish, its institutions and its people, the family income and its expenditure, the women of the East, *etc.* In the second part there are discussions of the natural links between the rich and the poor, of work among the children, of local responsibilities and of charity. No better book than this can be found by one who desires to know the truth, stripped of all sensationalism, about the East London population, as presented by one who has for years taken a deeply sympathetic interest in all that pertains to the lives of the poor, and who yet has never been carried away by any of the socialistic or philanthropic fads of the age. Mrs. Bosanquet shows very clearly both that the population of East London has much to make life worth living and that the population of West London is far from being the heartless and luxurious class which it is so often pictured to be. Speaking of the economic condition of the sewing woman and of the difficult question whether customers should refuse to purchase the products of the sweat shop, Mrs. Bosanquet regards it as an almost infallible rule that good work is fairly paid, while bad and hurried work is almost sure to mean starvation wages to the worker. In this remark there is a thoroughly practical suggestion. Under ordinary conditions it is impossible for the customer to know with certainty whether goods are actually made where they purport to be manufactured, and it is a debatable question whether it is economically wise to attempt to limit purchases to goods supposed to be produced under particular conditions; but the rule of purchasing good work, and good work only, is one which, if followed, can have only good consequences, economic, social and moral. Mrs. Bosanquet has long been an active worker in organized charity, and her chapter on charity may be commended as wise and informing.

In the excellent series of small volumes on "Social Questions of To-day," edited by H. de B. Gibbins, we find an admirable little book on *The Problem of the Unemployed*, by John A. Hobson (London, Methuen & Co., 1896). Mr. Hobson has studied this difficult question from many points of view, and has made himself thoroughly familiar with the facts and statistics, as well as with the economic theories pertaining to the subject. He analyzes the meaning of unemployment, attempts to discover the measure of unemployment and to answer the question whether the evil is increasing. It is his

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conclusion that, while it is impossible to answer this last question positively, the character of employment in England — and probably also in most other countries — is one of increasing irregularity. Turning, then, to the causes of unemployment, Mr. Hobson attempts to show that the ultimate cause must be found in a lack of adjustment of consumption to production. He believes that all suggested remedies which fall short of an increase of aggregate consumption in the community are mere palliatives; and that attempts to cure unemployment by making new employments will of necessity prove futile unless the conditions are such as to throw an increased power of consumption into the hands of those who will use it to raise the general level of consumption in the community. Mr. Hobson neglects to consider the very important fact that under modern conditions of industry it is necessary that the workman be so trained that he can pass quickly and successfully from one machine-tending employment to another.

Le Comte d'Haussonville contributes to the *Bibliothèque contemporaine* a little volume of studies of *Socialism and Charity*, in which he vigorously defends a view of the vices, crimes and poverty of modern society which will surely call down upon him the abuse of all sentimental people. He thinks that altogether too rosy a view of the future of humanity has become popular, as a result of the general acceptance of the philosophy of evolution. It is, in his opinion, a great fallacy to argue that because there has been progress in human well-being, as well as evolution in the animal kingdom, we may therefore look for the elimination of evil and suffering. Suffering can be diminished, but not extinguished. Le Comte d'Haussonville does not believe that the time will ever come when such evils as drunkenness, illegitimacy, prostitution and pauperism will have disappeared from human society; and in his judgment the notion that they can be suppressed leads individuals and governments to attempt experiments which are sure to result disastrously and to increase the very evils that are complained of. Only by studying each particular plan of amelioration that has been tried, criticising its defects and improving its methods, can we hope to secure such diminution of misery as is really possible.

Professor E. C. K. Gonner has put together in a volume of 251 small pages a large amount of information, exposition, criticism and good sense on *The Socialist State: Its Nature, Aims and Conditions* (London, Walter Scott, 1896). He describes his book as an introduction to the study of socialism, and hopes that it will serve to convince

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its readers that the problem of socialism cannot be ignored, and yet that a final judgment upon it must be arrived at, not on any one aspect or presentment of the case, but after an even-minded review of the whole complex medley of interests, difficulties, dangers and advantages. The work is worthy of the author's purpose. The fairness and good judgment shown throughout are very well indicated in the conclusion that it would be presumptuous to say that no socialistic scheme will ever be realized in practice; that probably most socialists, and certainly most socialistic leaders, themselves believe that no such scheme is capable of immediate realization; and that any system which is to meet with success will have to take into more vital account than has yet been done the variable elements in human nature and the settled conditions which are necessary to the security of society, to progress and to the growth of the state.

Shortly before his death in 1893 the famous French socialist, Benoit Malon, summed up his previous writings in the two volumes *Le socialisme intégral*. These have now been issued in a new edition in two volumes by Félix Alcan and the *Revue socialiste*. The first volume contains a history of socialistic theories and tendencies; the second deals with possible reforms and practical methods. A third and last volume, which was never completed, was to treat of probable results and to give the general synthesis. But the volumes as published will give a good idea of the French socialists and of the man who founded and till his death edited their chief periodical.

The *Handbuch des Socialismus*, by Drs. Carl Stegmann and C. Hugo (Schabelitz' Verlags-Magazin, Zurich), of which the first installments were noticed in this QUARTERLY (IX, 183), has just been issued in completed form as a portly volume of 878 pages. Attention may be particularly called to the review, brought down to date, of the socialistic movement in each separate country as well as to the articles on the lesser lights of socialism from the beginning of the century. Altogether the *Handbuch* contains a copious repertory of facts which will be sought for in vain in other publications.

The publishing house of P. V. Stock in the Palais Royal at Paris has lately begun a *Bibliothèque sociologique*, including the works of some of the important French and foreign socialists. Perhaps the most interesting volume to American readers is that which contains the less-known and manuscript works of Michel Bakounine (or Bakunin, as we are accustomed to spell it). The chief contents are his "Federalism, Socialism and Anti-theologism," his letters on "Patriotism" and "God and the State." Other numbers in the series

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are devoted to Jean Grave (*La société mourante et l'anarchie* and *La société future*), Hamon (*Psychologie de l'anarchiste-socialiste, Le socialisme et le congrès de Londres*), Kropotkine (*L'anarchie*), L. Lacour (*Humanisme intégral*) and Ch. Malato (*De la commune à l'anarchie*).

Les problèmes sociaux contemporains, par Achille Loria (Paris, V. Girard et E. Brière, 1896), is an application of Professor Loria's well-known opinions upon the relations of private property and economic phenomena to social evolution, the problems of liberty, property, population, socialism, social Darwinism, social evolution and revolution. There is little chance that Professor Loria's opinions will be extensively adopted by economists and sociologists in the United States; but his discussions are always suggestive, and the present book, while its treatment of social questions is nowhere profound, is interesting and at times helpful.

Those who do not read German with ease will welcome the French translation of Rümelin's *Problems of Political Economy and Statistics* (Paris, Guillaumin, 1896). In the German original they are well known as his *Reden und Aufsätze*, written between 1867 and 1881. The translator, Mr. de Riedwatten, has included in the French version the various essays on population, and the more general articles on social laws, ethics, politics and statistics. The volume is the fourteenth of Guillaumin's *Collection d'auteurs étrangers contemporains*, of which the three preceding numbers are translations of Westermarck, W. A. Shaw and Schulze-Gävernitz. This is the first of the series which is not to be found in English dress.

A good beginning in the detailed study of the social conditions of the individual American industries has been made in the two monographs by Dr. Carl Kindermann, privat-docent in Heidleberg, under the general title *Zur organischen Gütervertheilung* (Leipzig, Duncker und Humblot). The first, published in 1894, is devoted to a study of the laborers in the pig-iron industry; the second, to a study of those in the glass industry. They form installments of a larger work dealing with a comparison between American and European industrial conditions. Dr. Kindermann is fond of high-sounding classifications, and speaks of the "centralistic, organic and pluralistic" tendencies in modern development; but what he really writes about is the problem of government interference with industry. The monographs were composed under difficulties inseparable from only a short study on the spot; but they contain some interesting statistics and conclusions. The comparison with German conditions appears only in the second volume, devoted to the glass industry.

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Among the strikes that have attained international importance, that of the glassmakers at Carmaux in 1895 has been of peculiar interest, not only because it became a political question in France, but also because it resulted in the starting of a coöperative factory by the strikers themselves, aided by a popular subscription. The whole story is now told in an attractive way by Léon de Seilhac in his *La grève de Carmaux et la verrerie d'Albi* (Perrin et Cie., Paris, 1897). It is in the main an objective statement, and the author does not indulge in any illusions as to the success of the new scheme. His fears have only recently been realized. The failure of the scheme, however, does not rob it of its value as an object lesson. A large part of the book consists of appendices containing the decisions of the courts on various phases of the conflict.

The well-known *Katechismus der Volkswirthschaftslehre* of Hugo Schober has now appeared in a fifth edition (Leipzig, J. J. Weber, 1896). The editor, Dr. Ed. O. Schulze, who has made a bulky little volume of it, has based his alterations chiefly on the recent German and Austrian text-books. The work, while of great practical value to German students, will be of interest to English and American readers only as giving in a convenient and compact form the general German view of economic theory and practice.

The *Cours d'économie sociale* by R. P. Ch. Antoine, professor of moral theology and social economics (Paris, Guillaumin, 1896), is of interest as the latest effort to expound economics from the point of view of the Roman Catholic divine. As was to be expected, far more stress is laid on the ethical than upon the economic aspects of each problem; and everywhere an effort is made to comment on actual burning questions in the light of the recent papal encyclicals on labor and other allied topics. Incidentally considerable information is given about the practical work of the church in the social movement.

Under the title *Economic Science and Practice* (London, Methuen & Co., 1896), Mr. L. L. Price collects thirteen essays on a variety of topics. Seven of the essays deal directly or indirectly with the question of industrial peace and with the English machinery for its maintenance and restoration. Of boards of conciliation, boards of arbitration and sliding scales Mr. Price speaks with balanced hopefulness. This machinery is not new in the United States; for in January, 1897, twelve states had established boards of arbitration. The public, therefore, seems to have done its share. It is less certain that those directly interested — the employers and the employees — have done all that might be expected of them. It

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is possible, of course, that a mistake may have been made by attempting to solve the question by the creation of *official* boards of arbitration. It is more likely, however, that the defect lies in the private boards of conciliation, which are by no means so numerous or so well organized here as they seem to be in England. In his account of Adam Smith and his relations to recent economics, and in his review of the *Principles of Economics*, Mr. Price's work is careful and thoroughly appreciative. The criticisms, when there are any, are the silent negative criticisms of selection and emphasis. Nevertheless he is able to maintain throughout a certain independence of standpoint. The essay on "The Theory of Rent" contains some interesting and timely applications and extensions of the theory.

Students of French finance will welcome the *Éléments de la science des finances et de la législation financière française*, by Max Boncard and Gaston Jèze (Paris, V. Girard et E. Brière, 1896). As the title indicates, the work is devoted mainly to the administrative features of the fiscal system; and its distinguishing characteristic as compared with many previous works is the fullness with which it handles the administration of the public debt. In the matter of the public revenue the book contains a useful review of the development since the Revolution.

Among the handiest books on recent fiscal tendencies in France are to be mentioned the three volumes by P. Bidoire and G. Simonin entitled *Les budgets français*. They form numbers 15, 18 and 21 of the *Petite bibliothèque sociale, économique et financière* published by Girard et Brière in Paris. Each volume has two parts, dealing with the principles of the projected scheme for the ensuing year and the actual results of the budget for the current year; and they take up in turn the budgets of 1895, 1896 and 1897. As most of the important political discussions of recent years have turned on budgetary schemes, students of finance and students of politics alike will find in the little volumes much of interest and value.

In a monograph entitled *L'imposta successoria* (Turin, Bocca, 1896), Professor Alessandro Garelli presents a comprehensive treatment of the inheritance tax, especially complete as regards the theory of the subject. After discussing the theoretical bases of the tax and deciding to regard it as a payment in lieu of annual taxes, he gives a list of its virtues which almost serve to describe an ideal tax. Economically considered, he pronounces this form of taxation harmless in that it is not oppressive to industry, does not disturb prices or the action of competition by any process of shifting, does not

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diminish any reward of labor or abstinence or disturb the normal distribution of wealth, and may make possible the lightening of indirect taxes on consumption. He finds combined in this tax the advantages of direct and indirect taxation, including not only ease of payment, security and small cost of collection, productiveness and elasticity, but universality, uniformity and adaptibility to progressive rates. He denies that it has the effect of driving away capital; and maintains that, when heavy enough, it makes for social peace by conforming to the demands of the modern social conscience. A chapter is devoted to the specific questions of detail which confront the legislator; and the monograph closes with a sketch of the development of inheritance taxes in the principal countries of the world and a discussion of proposed amendments in Italy.

The last three numbers of the admirable series known as the *Petite bibliothèque économique* (Paris, Guillaumin) are devoted to two of the first and one of the latest of the French economists, Quesnay, Lavoisier and Léon Say. *Quesnay et la Physiocratie* is edited by Yves Guyot, whose preface of eighty-nine pages is quite of the *intransigeant* kind and defends the Physiocratic conception of the natural order against the wicked protectionists and socialists. The body of the little book is devoted to a selection of Quesnay's more important writings. The volume on Lavoisier is edited by Messrs. Schelle and Grimaux, of whom the latter gives a good biographical notice, and the former furnishes an interesting introduction. The little work contains Lavoisier's chief essays on agriculture and finance, and is thus far the only collection of his strictly economic writings. Of greater interest to the modern student is the volume *Léon Say*, to which Mr. J. Chailley-Bert contributes a clear and appreciative introduction. From among the many writings of the celebrated statesman and economist, the editor has selected part of the famous report on the payment of the war indemnity of 1871, a memoir on budgetary administration and the notable speeches on the budget of 1883 and the tariff changes of 1891. The bibliography occupies twenty closely printed pages.

A laborious contribution to the history of economic literature has been made by Dr. R. v. Erdberg-Krczenciewski in his monograph on *Johann Joachim Becher* published as the second number of the sixth volume of Professor Elster's *Staatswissenschaftliche Studien* (Jena, Fischer, 1896). Becher has long been prized by the Germans as one of the ablest as well as one of the earliest Mercantilists. The author devotes almost one-fifth of the monograph to an introduction

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on the Mercantile system in general, which is neither very new nor very profound. But the details of Becher's life have been industriously collected, and the methodical account of his views will be convenient to those who do not possess the original essays.

Professor Guillaume De Greef, of the *Université Nouvelle de Bruxelles*, continues his elaborate exposition of historical and social progress in a volume on *Croyances et des doctrines politiques* (Bruxelles, 1895), in which we find an interesting and suggestive review of political thought from the most ancient times down to the present. Peruvians, Mexicans and Egyptians, no less than the mediæval thinkers and the modern philosophers, have come in for examination. The volume is hardly to be described as a profound treatment of the subject, but, like all that Professor De Greef writes, it is well filled with suggestions, interpretations and flashes of insight that render it valuable to any student of this subject.

The title, *The Council of Trent*, given to the late Professor Froude's last published work (Scribner's, 1896) is somewhat misleading. Considerable space is devoted to a general review of the Lutheran Reformation, and only the earliest period of the Council can be said to be treated at all, as the concluding summary contains the only references to the decisive sessions of 1562–63. The fresh, independent treatment of a subject so badly handled by both the friends and foes of the movement is, however, most welcome. The book possesses the peculiar charm for which its author is noted, and no one, whether scholar or layman, will put it down without feeling that he has been carried into the very midst of the momentous struggle of the fifteenth century, and has gained much from Mr. Froude's shrewd suggestions. It is a pity that circumstances did not permit exact references to be given to the authors upon whom the writer has relied; it would be interesting to know the *rôle* that Erasmus, Sarpi, Pallaricini and the rest respectively played in determining Mr. Froude's conclusions.

Professor A. B. Hart is laying teachers of American history, especially in schools and colleges which are not well supplied with books, under great obligations. Channing and Hart's *Guide to the Study of American History*, which appeared some months ago from the press of Ginn & Co., has now been followed by the first volume of Hart's *American History as told by Contemporaries* (The Macmillan Co., New York, 1897). The first-mentioned volume contains an excellent bibliography, prefaced by judicious observations on the method of teaching history. The new series, of which Professor Hart is sole

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editor, contains nothing but extracts from contemporary writers. It will consist of four volumes, the first of which, just published, is on the *Era of Colonization, 1492 to 1689*. The extracts illustrate the history of the discoveries, the conditions in England which facilitated and guided colonization, and life and growth in the English-American colonies themselves. The selections are made from a large number of representative writers. They are intended to illustrate the social and political life of the colonists in all its leading phases. The extracts have been judiciously selected and arranged, and probably accomplish the purpose intended as well as any such collection could do it. The series must prove a valuable aid to teachers, and should result in a wider reading of the original authorities.

It is very unfortunate that training in the use of books regarded merely as instruments is not yet recognized as a regular branch of our college instruction. The want of such technical training is nowhere more apparent than in the many slovenly works upon history which are written and read with the same serene faith that what is printed is right. In the hope of encouraging a more enlightened use of books M. Ch.-V. Langlois has recently introduced a course in historical bibliography in the *Faculté des Lettres* of Paris. His excellent *Manuel de bibliographie historique* (Paris, Hachette) is partially, at least, the outcome of his instruction. The earnest student or teacher of history will find this little volume a most useful addition to his works of reference. It is, evidently, the result of much careful and discriminating thought and investigation. The author has compressed into a little volume of less than two hundred pages an extraordinarily complete account of the bibliographical apparatus now essential to intelligent historical research. The book shows a cosmopolitan acquaintance with the work carried on in the libraries of the world, including those of the United States. It is encouraging to see the Boston Public Library and the Athenæum termed "*deux bibliothèques modèles*." The second part of the work is to be devoted to a comparative account of the scholarly activity in the field of history in the various countries of the world, and will describe the great coöperative undertakings which are doing so much to advance the science. It is to be hoped that the completion of this useful and original essay will not be long delayed.

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